

English edition

Information and Notices

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II

(Preparatory Acts)

ECONOMIC AND SOCIAL COMMITTEE

Opinion on EU Funds Transfers: Transparency, Performance and Stability

(95/C 236/01)

On 13 December 1994 the Council decided to consult the Economic and Social Committee under Article 100A of the Treaty establishing the European Community, on EU Funds Transfers: Transparency, Performance and Stability.

The Section for Economic, Financial and Monetary Questions, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 16 May 1995. The Rapporteur was Mr Burani.

At its 326th Plenary Session (meeting of 1 June 1995), the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction

1.1. The ESC has commented repeatedly on the subject covered by the present Communication, most recently⁽¹⁾ in its Opinion of 6 July 1994. The terms of the problems have not changed substantially since July. However, further consideration is necessitated by the development of the Commission's approach.

1.2. The present Commission document is essentially made up of:

- a very exhaustive introductory report on the whole problem;
- a Draft Directive of the European Parliament and Council on cross-border transfers;
- a draft notice on the application of the EC competition rules to cross-border transfer systems.

1.3. This Opinion examines the Draft Directive and the draft notice.

2. Background

2.1. As early as 1990, the Commission had pointed out that transfers of funds from one EU country to another were subject to delays, that the conditions were not transparent, and that the practice of double charging of fees and costs was too widespread. A Recommendation⁽²⁾ laid down principles which the banks were called upon to respect.

2.2. The implementation of the Recommendation was discussed by two groups, one concerned with the technical development of systems (PSTDG) and the other with liaison between users and banks (PSULG), whose work resulted initially in the adoption of 'Industry Guidelines' which the European credit sector associations proposed to the European banks as a system of selfregulation, as an alternative to regulations imposed through a Directive.

⁽¹⁾ ESC Opinion of 6 July 1994 on the Communication and Draft Proposal for a Directive on the Transparency and performance of cross-border payments (OJ No C 388, 31. 12. 1994 and SEC(93) 1968 final).

⁽²⁾ Commission Recommendation of 14 February 1990 on the transparency of banking conditions relating to cross-border financial transactions (90/109/EEC, OJ No L 67, 15. 3. 1990).

2.3. An initial check made by the Commission early in 1993 through a sampling study revealed a number of shortcomings.

2.4. Following this check, and after discussions with the PSULG and the PSTDG, the Commission adopted on 14 December 1993 a plan of action based on a further sampling study to measure whether sufficient progress had been made on transfers, against a set of predetermined criteria.

2.5. The results of the checks are contained in a Report⁽¹⁾ drawn up for the Commission in August 1994 by Retail Banking Research Limited, London. The report is based on research involving 1,048 transfers of ECU 100 from 34 banks in the twelve EU countries.

2.6. Once again the Commission regarded the results as unsatisfactory: as promised in the action plan of 14 December 1993, it has now presented the Communication under review and in particular the Draft Directive regulating transfer practices.

2.7. The Draft Directive also raises a fundamental problem — that of the competition aspect. The Commission had already pointed out in the past⁽²⁾ that the banking industry should use agreements to ensure proper functioning of cross-border payments, and had drawn up regulatory principles to that end. These principles have now been revised and are contained in a Draft Communication which will be analyzed in this Opinion.

2.8. The Commission Communication, with a view to the introduction of a single currency, mentions a range of aspects and gives a systematic picture of the problems of EU payment systems. It is a complex picture, in the context of which the Commission sets out its short- to medium-term study and action programmes, which will be commented upon below.

3. Preliminary Comments

3.1. It appears from the present document and the preceding one that the term used for the subject of the

Communication — ‘cross-border transfers’ — gives rise to misunderstandings and to some proposals to change it. It is clear from the context and from the very title of the Communication that the subject is transfers of funds from one country to another within the European Union. This clarification is important for defining the terms and scope of the rules.

3.2. The Italian adjective ‘transfrontaliero’ (French ‘transfrontalier’) is no doubt an acceptable neologism, but in current usage it refers to two clearly defined peripheral regions separated by a state border; it cannot therefore apply to the subject in question. The term used in English, ‘cross-border’, is correct, but translates as ‘internazionale’ etc., according to the terminology adopted by the Bank of International Settlements⁽³⁾.

3.3. It follows from points 3.1 and 3.2 above that the correct wording to indicate the subject in question exactly can only be ‘bonifici nell’interno dell’UE’ — in short ‘bonifici intracomunitari’ — to be translated in French as ‘virements intra-communautaires’ and in English as ‘intra-Community transfers’. It will be seen from the comments on the Draft Directive that this clarification has a practical, and not merely semantic, value.

3.4. The Communication under review has its starting point in the findings of the report which the Commission received in August 1994. The report is more than 120 pages long and is summed up in the Communication in about eight lines of text: too short to properly explain the situation.

3.5. The Commission justified the use of a Directive by the statement that insufficient progress had been made on the subject. The ESC takes note of this, and points out that this view is shared by the European Monetary Institute (EMI)⁽⁴⁾. While bearing in mind that various banking groups and individual banks have invested large amounts in the development of new, efficient systems, one must recognize that too many banks — especially in certain countries — have remained unresponsive to the Commission’s requests and to the guidelines proposed by their European and national organizations.

⁽¹⁾ ‘Study in the Area of Payment Systems into the Transparency of Conditions for Remote Cross-Border Payment Services and the Performance of Cross-Border Transfers’ (English version only).

⁽²⁾ Cf. Annex C to the Commission Working Document ‘Easier cross-border payments: breaking down the barriers’ (SEC(92)621 final, 27. 3. 1992).

⁽³⁾ Cf. inter alia, ‘Central Bank Payment and Settlement Services with respect to Cross-Border and Multi-Currency Transactions’, Bank of International Settlements, Basle, 1993.

⁽⁴⁾ Opinion of the EMI addressed to the Council, 20. 3. 1995, point 3.

3.6. In its earlier Opinion, the ESC had come out in favour of self-discipline in the banking sector — a view which the EMI still strongly supports. Bearing in mind also that experience has shown how an overall development of the sector cannot be achieved by that approach, the ESC can only share the Commission's view on the need to resort to a Directive.

4. General Comments on the Draft Directive

4.1. The ESC confirms all statements made in the General Comments section of its Opinion on the previous Communication ⁽¹⁾; in particular, it wishes to reiterate its appreciation of the Commission's efforts to improve the transparency and quality of implementation of intra-European transfers, by providing a minimum frame of reference and general rules in accordance with the principles of the internal market.

4.2. Consumers' organizations, in particular, support the Directive, regarding it as a response to their wish to receive reliable, full information, including clear indications of the exchange rates, value dates, fees and costs which vary with the different payment methods and execution periods. The provision of such information would help to stimulate competition and promote the Citizen's Europe.

4.3. The ESC hopes that the above conditions can be achieved with the collaboration of the banks; there is however, a risk mentioned on earlier occasions⁽²⁾ that full information, applying to the complex collection of existing cases, may be difficult to consult.

4.4. Forecasting of the time necessary for execution and the basis for calculating all the fees and costs chargeable to the client is feasible for the part concerning the bank which receives the order from its own client. For the foreign part, the variety of current methods and conditions will make it necessary to apply reasonable estimates. The enormous number of banks and the variation in charges from one to another make alternative solutions impossible, unless inter-bank agreements at national level are promoted in future.

4.5. As regards time taken for execution of transfers, the results of the study suggest that most of the banks — especially large international banks — will be capable

of respecting the Directive. However, it should be pointed out that a number of EU countries do not yet have an efficient national clearing system, so that orders destined for or coming from such countries would be at a disadvantage. The negotiation of different terms could help to correct positions of competitive inferiority, as long as it is combined with suitable levels of charges. The ESC hopes that automated clearing systems will be adopted by the entire EU banking sector, so as to improve procedures generally and reduce costs.

4.6. The ESC notes that in one respect the Draft Directive differs significantly from the plans repeatedly expressed by the Commission and the methods used in its studies and surveys. Whereas it had been repeatedly stated that the rules were intended to assist consumers and SMEs to transfer funds easily in the internal market, the document under review aims to improve crossborder transfer services for citizens and businesses.

4.7. The abandonment of the concepts of 'consumers' and of 'SMEs' in favour of coverage of all payments, whatever their amount, is acceptable as regards the customers' right to transparency (Articles 3 and 4), respect for timescales in the absence of specific agreements (Article 5), and the ban on 'double charging' (Article 6). However, the provision on the so-called 'moneyback guarantee' calls for certain comments:

4.7.1. Large and urgent transfers — a category expressly taken into account by the Central Banks⁽³⁾ — are dealt with through entirely different channels from those used for small transfers; they have long been a subject of study and monitoring by the Committee of Governors in the EU countries and now by the EMI, which have drawn up rules (including competition rules) specifically applicable to such transfers. Payments of this type are therefore subject to a different logic from that applying to small transfers and the interested parties — which often include the Central Banks as intermediaries — are different from consumers and SMEs.

4.7.2. The Commission has invited consumers, traders and SMEs to participate in the consultative groups (PSULG) and has rightly become a spokesman for their needs. It has never invited the companies which

⁽¹⁾ OJ No C 388, 31.12.1994.

⁽²⁾ See the Opinion mentioned in footnote 1, points 2.2.2 and 2.2.3 and the Opinion on the discussion document 'Making payments in the Internal Market' (OJ No C 120, 6.5.1991).

⁽³⁾ Cf. 'Minimum Common Features for Domestic Payment Systems', Report to the Governors of the Central Banks of the EC countries, Working Group on Payment Systems, Basle, November 1993, Chapter I, point 1.3.

institutionally deal with high-value transfers to join these groups, nor is there any evidence that such companies have ever encountered difficulties or called for legislative provisions to regulate the matter.

4.7.3. The Commission has based its conclusions on two studies, each carried out on the basis of ECU 100 samples; no evidence has been gathered on high-value payments. It is not therefore acceptable to extend conclusions drawn from such limited cases to a type of transfer which is different as regards techniques, aims and interested parties.

4.7.4. In short, guarantees thought appropriate to limited-value payments cannot be automatically extended to high-value payments; the contractual obligations which would derive from such an extension would involve high risks which, in the absence of consultations, neither the banks nor their clients — nor the Commission itself — have had an opportunity to assess.

4.7.5. The conclusion in the preceding point is also reached by the EMI in its Opinion of 20 March 1995 addressed to the Council, for the same reasons as those given in points 4.6, 4.7.1, 4.7.2 and 4.7.3 above. In that Opinion the EMI also refers to the Treaty on European Union, which entrusts it with the task of promoting international payments, and particularly high-value payments.

4.8. The ESC points out an inconsistency between the declared aim of the Draft Directive — to prepare the way for Economic and Monetary Union — and its scope, which includes credit transfers denominated in third-country currencies; such currencies will not be absorbed by the single currency.

4.9. There is also a legal impediment to the Directive applying to credit transfers denominated in a currency other than those of the EU countries or the ecu: such transfers necessarily involve a bank which is located in a third country and is therefore not subject to Community laws. Nor is it conceivable that such banks could be contractually obliged to respect those laws: the international market has its own rules, and these do not allow for any deviation.

4.10. This legal impediment also has a side-effect: many financial (Swap) operations which take place in the high-value systems involve simultaneous transfers in opposite directions in two or more currencies, at least one of which can be that of a third country. It is inconceivable for one contract to be subject to more

than one set of rules — Community and non-Community rules. This consideration precludes the application of the Directive to high-value transfers.

5. Specific Comments on the Draft Directive

5.1. Article 1 — Scope

5.1.1. The Directive cannot cover 'any currency': it must be confined to the currencies of the EU countries, including the ecu (see points 4.8 and 4.9).

5.1.2. In view of the above, the ESC proposes that Article 1(2) of the Draft Directive be amended to read as follows:

'This Directive shall apply to credit transfers which are denominated in the currency of one of the EU countries, including the ecu, and are sent from one EU country to another EU country.'

5.2. Article 2 — Definitions

5.2.1. Article 2(f), 'cross-border payments': the wording here would seem to seek to exclude credit transfers ordered by persons or firms not having an account in a Member State bank, which is obviously not the intention. The sub-paragraph should therefore be amended to read as follows:

“‘intra-Community payment’ shall mean a payment made by an originator through an institution or its branch in one Member State to be made available to a beneficiary at an institution or its branch in another Member State;’

5.3. Article 3 — Information prior to credit transfer (made or received)

5.3.1. Transfers vary considerably, including simple cases (from one correspondent to another), and more complex cases where one or more intermediate banks and their subsidiaries are involved. In this last case in particular, the provision of 'precise' information on the periods, fees and charges applied by the foreign banks is objectively impossible. The ESC proposes that the introductory part of the Article be amended to read as follows:

'The institution shall supply its customers with clear written information about the services it provides, and reasonably reliable information on the services offered by corresponding or intermediary institutions, to effect or receive credit transfers.'

5.4. *Article 4 — Information subsequent to a credit transfer (made or received)*

5.4.1. The reception of a credit transfer, whether from within a country or from abroad, should be subject to the normal procedures and banking practices of each country. In some countries, 'confirmation' is not sent for each transaction but is included in the regular banking statement. The ESC therefore proposes that the introductory part of the Article be worded as follows so as not to impose variations from normal procedure:

'The institution shall supply its customers with clear written information, according to the procedures already in use for domestic transfers, subsequent to their making or receiving...'

5.5. *Article 5 — Obligation to execute in good time*

5.5.1. Article 5(1) — the ESC congratulates the Commission on leaving the decision on timescale for execution to the free will of the interested parties, bringing competition into play as a balancing factor. The fixing of a time limit of five days, where there is neither a specific agreement nor a published time-scale, appears to derive from the results of the two Commission studies on ECU 100 credit transfers by 35 European banks, which gave an average time-scale of 4.65 and 4.79 days respectively. These results were achieved by giving instructions to the originating banks to get the credit transfers to the beneficiary by the most rapid means.

5.5.2. The originator may not have a particular interest in the most rapid means, which are normally the most costly; he may in fact choose less rapid means in order to pay less. In such cases, the imposition of a time limit of five days — clearly based on the results of a study of the most rapid means — is not applicable to all cases, which will also include orders by post and the involvement of three or more institutions. It is therefore proposed to amend the first indent of Article 5(1) to read as follows:

'The institution of the originator shall be responsible to the originator for ensuring that the credit transfer is completed no later than the end of the fifth business day following acceptance by it of a payment order from the originator to be executed by urgent means, and provided that the transmission does not involve more than two banks, or that there is an automatic clearing system in the beneficiary's country;'

5.5.3. The second sub-paragraph of Article 5(1) provides that the institution of the beneficiary shall be obliged to place the amount of the credit transfer at the disposal of the beneficiary at the latest by the end of the business day following completion of the credit transfer. Account must be taken of beneficiaries who do not have an account, and in those cases the obligation to place at the disposal of the beneficiary must be regarded as being met by sending the beneficiary a note that funds have been received. The text of the indent should therefore be amended to take account of this possibility, by adding the following sentence:

'This obligation shall be met by crediting the sum to the beneficiary's account or by sending an advice note if the originator has not indicated an account number.'

5.5.4. Article 5(3) rightly lays down that the beneficiary's institution shall compensate the latter for late payment. The beneficiary's bank should therefore be subject to the same principle of fairness as that applicable to the originator's bank (Article 5(2)): if the delay is due to errors or incomplete instructions on the part of the originator, it is the latter, and not the beneficiary's bank, who should be responsible for paying any compensation. The following sentence should therefore be added at the end of Article 5(3):

'Where the beneficiary's institution can establish that the delay was attributable to the originator, the beneficiary's institution shall have the right to recover from the originator any compensation payable to the beneficiary.'

5.5.5. It should also be pointed out that all legal systems recognize the principle that the obligation to pay compensation is incumbent on the party at fault; the ESC therefore considers that the following new paragraph, Article 5(4), should be inserted:

'An institution which has paid compensation on the basis of Article 5(2) and (3) has the right to be reimbursed by the institution to which the blame for delayed payment is attributable.'

5.6. *Article 7 — Obligation of institutions to refund in cases of non-completed credit transfers*

5.6.1. The obligations laid down in this Article are obviously inspired by the United Nations' 'standard laws', which has not been adopted by any country — not even the United States, which promoted it in the first place. They conflict with the current legislation on payment orders in all the Member States, which lays down that the originator is not held responsible in cases

of force majeure or for the acts of others. More eloquent than any comment are the grounds given by the German Federal Supreme Court on 19 March 1991 for its judgement in a case of erroneous execution of an international payment order:

'having done everything necessary for the execution of the instructions given, the (originator's) bank cannot be held responsible for any error by the other banks involved.'

5.6.2. Moreover, one cannot ignore the rights of the originator, who cannot be expected to make enquiries with the foreign banks; the Directive must therefore lay down the obligation for the originator's bank to look after its client's interests.

5.6.3. In its desire to protect the originator in the event of an order not being carried out, the proposal seems to have forgotten that the beneficiary too must be protected, be he a consumer or a firm. Now, the beneficiary may have an interest — which takes priority over that of the originator — in receiving the credit transfer whatever happens, even if it is late and with the compensation provided for in Article 5(3). The principle of a payment order being irrevocable, which is a basic pillar in all systems, may be saved by a modification complying with criteria of fairness, leaving the beneficiary the option of waiving the right to receive the sum due to him. Account should also be taken of the sensitive legal repercussions of the unilateral revocation of an order in the event of the originator's or beneficiary's bankruptcy.

5.6.4. In all legislations, force majeure (Article 7(3)) is laid down as a legitimate obstacle to execution of the payment order, resulting in exemption of the agent from contractual or legal penalties. It would therefore be wrong if Member States could allow an exemption from contractual obligations for reasons of force majeure, nor is it acceptable for the Community to lay down a principle implying a responsibility of the agent even in cases of force majeure.

5.6.5. As regards the possibility for Member States to derogate from the refund obligation when the payment exceeds ECU 10,000 (Article 7(3)), the ESC, on the basis of points 4.7.1 to 4.7.5 and 4.10 above, thinks that a limit should be laid down which is consistent with the principle of maintaining a clear separation between high-value and limited-value systems. The limit of ECU 10,000 given by the Commission seems adequate and would have the advantage of covering the bulk of the credit transfers within the EU.

5.6.6. In accordance with the above points, the ESC proposes that Article 7(1) and (2) be amended to read as follows:

'1. If, after a payment order of a value not exceeding ECU 10,000 has been accepted by the originator's institution, the related credit transfer is not completed for reasons other than force majeure or the fault of the originator, the originator is entitled — unless the beneficiary objects — to have his account credited on demand with the full amount ... such demand to be made to his own institution ... instructed it.'

'2. If the non-completion of the credit transfer was caused by force majeure or by defective instructions given by the originator to the institution, the originator's institution and the other institutions involved shall use their best endeavours to make the refund to the originator, without the addition of interest and charges, as described in paragraph 1. The beneficiary's option of objecting, as provided for in paragraph 1, remains unaffected.'

5.6.7. Article 7(3) should be deleted.

5.7. *Article 9 — Report to the European Parliament and the Council*

5.7.1. The ESC calls for the Article to be amended as follows:

'No later than 31 December 1999, the Commission shall present a report to the European Parliament, the Council and the Economic and Social Committee...'

6. **Comments on the draft notice on the application of the EC competition rules to crossborder transfer systems**

6.1. *Scope (Point 1)*

6.1.1. The Commission had previously drawn up a document⁽¹⁾ which laid down principles, or rather guidelines, based on the application of competition rules to intra-European transfer systems. Intervening experience, the development of the systems and discussions with the industry have led the Commission to draw up a new draft notice.

⁽¹⁾ 'Principles on competition for credit transfer systems', Annex C of the Commission Working Document of 27. 3. 1992.

6.1.2. The subject dealt with is, as the Commission points out, 'limited to systems insofar as they carry cross-border transfers', and these are therefore dealt with separately from other systems, whether contact or distance systems. The ESC also draws the Commission's attention to the fact that payment systems, whatever their nature, form part of a whole which involves the banking system as a supplier, clients — consumers, SMEs, trade and industry — as beneficiaries of the service, the Central Banks as supervisors of the stability of the system and the EMI as regulator for monetary circulation aspects when necessary. When regulating intra-European transfer systems, it is therefore necessary to take account of the existing inter-relationship between the various systems and to have an overall perspective; in other words, when establishing a rule for one system it is necessary to ask oneself what effect it will have if it is to be applied by analogy to other systems.

6.1.3. In the earlier document on the principles of competition the Commission recognized that, when setting up or linking transfer systems, institutions may need to base themselves on firmly established principles for the technical, legal and operational aspects of the services provided to clients. Firmly established principles must be clear, with minimum scope for interpretation by the parties; yet the ESC notes that in various parts of the document terms and concepts are used which are too vague and likely to give rise to doubts, not certainty.

6.1.4. The recommendation in the preceding point is based on the various cases of Commission intervention in respect of the application of competition rules to payment systems in general, some of which are still under discussion. The lack of precise benchmarks gives rise to uncertainties in the banking sector, which can be reflected in delays or failure to adopt initiatives, to the detriment of the innovation programme recommended by the Commission itself.

6.2. *Non-price competition* (Point 2)

6.2.1. Paragraph 4

The ESC agrees that the principles of competition law and freedom to provide services must apply also to systems set up by legislation or guided by public authorities⁽¹⁾, and agrees with the Commission on the approach adopted — that of not dealing in the document

with aspects of public regulation applying to such systems.

6.2.2. The systems to which the Commission refers are obviously those of transfers of large sums, in which the central banks normally act as managers, and in any case as institutionally responsible for the stability of the systems and for monitoring risks, in particular systemic risks. The regulatory guidelines of the systems have been drawn up⁽²⁾ by the Working Group on EC Payment Systems set up by the Committee of Governors of Central Banks of the EU countries, and adopted by the EMI Council in January 1995. This document sets out regulatory criteria for competition and for access and operational rules.

6.2.3. Although the Commission decision not to deal in its competition document with the aspects concerning these systems is fully justified, it is not clear why they are included in the Directive. Comments on this question are made elsewhere in this Opinion.

6.2.4. Paragraph 5

The provisions seem to concern only the banks. The provisions should, however, also cover any 'other institution' offering payment services to the public, as laid down in Articles 1 and 2(b) of the Draft Directive. If the 'other institutions' are covered by the Directive, they must also be covered by the rules on competition.

6.2.5. Paragraph 6

The ESC agrees with the principle of open systems; however, it points out that the criteria for deciding whether a system constitutes an 'essential facility' are too vague. The absence of objective criteria allows ample scope for subjective interpretation by the banks and the Commission, with the disadvantages mentioned in point 6.1.3 above. The ESC thinks it necessary for the Commission to redraft this paragraph, setting out objective criteria; it is unacceptable in its present form.

6.2.6. Paragraph 8

In determining the quota for a candidate's access to a system, the Commission refers to a share not exceeding a fair share of the 'actual cost' of past investments. As such a participation is subject to normal market rules, the term 'actual cost' has no meaning; the exact concept is that of the 'current value' of the investments.

⁽¹⁾ The comments on this point are based on the French version of the text; the English version seems to lend itself to ambiguous interpretation and the Italian version seems to imply that the principles apply only to systems set up by legislation or guided by public authorities.

⁽²⁾ 'Minimum Common Features for Domestic Payment Systems', November 1993.

6.2.6.1. The ESC understands and approves the Commission's effort to establish conditions for the access of foreign banks to a national system, while respecting the principles of freedom of establishment and freedom to provide services. However, application of the criterion that a branch of a foreign bank can influence the decision on access by citing the experience and volume of payment transactions of its parent bank in the country of origin is likely to give rise to cases of reverse discrimination against banks of the host country, which on a basis of parity of objective conditions would be denied access to the system. As worded, the principle is unacceptable; again in this case, further clarification is required of the criteria on the basis of which the 'worth' of the parent bank's experience and volume of transactions is to be assessed.

6.2.7. Paragraph 10

The ESC agrees with the principle that a system that is not an 'essential facility' may prevent individual members from joining other systems; however, it wonders whether this provision more or less automatically includes the ACHs⁽¹⁾. Systems based on ACHs have been mentioned repeatedly by the Commission as the best for facilitating intra-European payments; they can be fairly small at the outset, so that they are not classified as an 'essential facility'. Banks would look on a risk of not being able to join alternative systems as a disincentive to joining an ACH, thus damaging at the outset the system which the Commission wishes to encourage. It would be desirable to specify that membership of an ACH is never incompatible with membership of alternative systems.

6.2.8. Paragraph 12.1

The English and German versions of this Article lay down that operational standards can cover aspects other than those listed in 12.1; the French and Italian versions, on the other hand, imply that the list is exhaustive. The 'broad' version is probably what the Commission intended; in that case, it would be necessary to replace 'dont' by 'notamment' in French and the words 'comprendenti' by 'fra l'altro' in Italian. The other language versions should be checked.

6.3. Price competition (Point 3)

6.3.1. Paragraph 13

The ESC supports the Commission's contention that no agreement between participating banks on prices of transactions with their customers can be accepted.

⁽¹⁾ ACH stands for 'Automated Clearing House', an institution for the clearing of national or international payments.

6.3.2. Paragraph 14

The general principle expressed in the first part of the paragraph must be supplemented with an indication that 'participating banks' include intermediary banks. The footnote on the ACH should point that not all ACHs are national; in Germany, for example, there are regional ACHs.

6.3.2.1. The Commission approaches the question of interchange fees in terms of cost sharing. It is clear that any service must involve a reasonable coverage of costs; this should be included in the Communication.

6.3.3. Paragraph 15

Interchange fees represent a necessary technical feature of any funds transfer system, and they must necessarily be predetermined by an agreement. The question has been debated over a long period, and this would be an appropriate time to arrive at a definitive solution. The Commission could grant a general exemption for the interchange agreements, if necessary by reference to a study by independent experts showing the technical necessity for interchange fees. It would of course reserve the right to examine and to approve or reject the extent of the fees covered by the agreement, according to the criteria of fair distribution of benefits expressed in the final part of the paragraph.

6.3.3.1. It should also be pointed out that the interchange fee is not determined by competition: as a rule, for international transfers the choice of the bank to carry out the transaction is made by the originator, not his bank.

6.3.4. Paragraph 16

The ESC fully approves the Commission's commitment to eliminating the unacceptable practice of 'double charging', and agrees with the proposed text. However, it points out that the beneficiary's bank may incur costs which have nothing to do with the international nature of the payment, for example where it is necessary to search for a beneficiary who does not have account links, or in cases where the address is wrong or has changed. The admissibility of costs not related to the international nature of the transaction should be covered by the paragraph.

6.3.5. Paragraph 19

In the last part of this paragraph, the Commission seems to take the view that the existing national systems, or the ACHs, operate free of charge without interchange fees. Such fees are, however, always necessary to

distribute the costs fairly among the participants, and are therefore a technical feature of a multilateral system. The ESC therefore proposes the deletion of the final phrase 'and multilateral interchange fees would not seem necessary'.

6.3.6. Paragraphs 22, 23 and 24

In the ESC's view the wording of these Articles raises a serious problem. The Commission would appear to recognize the validity of agreements to cover the 'necessary' extra costs borne by beneficiaries' banks, and on this point the ESC can only agree. The problem arises with the term 'actual' extra costs: there is no absolutely reliable system for determining the costs of banking services, and they can vary enormously depending on the size of the bank, the nature and frequency of the services rendered and a number of other factors which cannot be objectively determined. Adoption of the concept of 'actual costs' would introduce an element of uncertainty which could give rise to endless discussions and disputes. The ESC proposes replacing the expression 'actual costs' by 'costs'; the Commission would of course retain the right to assess the suitability of such costs overall (with a favourable margin) when the agreements are being approved.

6.3.7. Paragraph 24.2

On the option of negotiating fees lower than the maximum amount, the ESC refers to point 6.3.3.1: given the lack of reasons for competition in this field, use of the option would be entirely theoretical.

7. Comments on Section III of the Commission Communication — Progress on accompanying measures aimed at improving cross-border payments

7.1. The role of payment systems in preparing for the transition to the ecu (Point III.1). The ESC welcomes the Commission's decision to continue studies on the practical problems connected with the introduction of a single currency, with the assistance of the two consultative groups on payment systems. It recommends that the Commission include the EMI among its regular

discussion partners, through its appropriate working groups.

7.2. Simplification of reporting requirements for balance-of-payments statistics (Point III.2). The ESC hopes that the work of the Task Force is rapidly completed and that it results in the determination of a uniform level for the minimum reporting threshold.

7.3. 'Legal framework' for cross-border payments (Point III.3). The ESC points out that by presenting the Draft Directive (Articles 5, 6 and 7), the Commission has anticipated the deadline for adoption of the legal standards still being discussed. Apart from this, it would draw the Commission's attention to the delicate problem of the finality of the payments and the effect it would have on the laws governing bankruptcy, which are not uniform throughout the Member States.

7.4. Linkages between automated clearing houses (ACHs) (Point III.4). The ESC approves and supports the Commission's efforts to introduce automated clearing houses in all the Member States and create links among them. These efforts must not, however, lead to single solutions excluding alternative systems, and above all must not be such as to increase the costs borne by user firms and consumers.

7.5. Transparency of payments made by means of a payment card (Point III.5). The ESC approves the action taken by the Commission in this sector, and recommends that the consultative groups on payment systems consulted by the Commission be supplemented by the consultation of all interested parties, in particular the international payment card organizations.

7.6. Pre-paid cards (electronic purses) (Point III.6). The ESC recommends that the problem of pre-paid cards be examined with all necessary caution since these are entirely new instruments, the development of which is being monitored by the EMI; indeed, the central banks regard this instrument as falling within their institutional responsibilities for the regulation of monetary circulation. The Community cannot adopt rules until pre-paid cards have been introduced, i.e. until users have had some experience of them and had a chance to express their needs.

Done at Brussels, 1 June 1995.

The President
of the Economic and Social Committee
 Carlos FERRER

Opinion on the proposal for a Council Directive amending Directive 77/388/EEC on the common system of Value Added Tax (taxation of agricultural outputs)

(95/C 236/02)

On 4 April 1995 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 subject, adopted its Opinion on 16 May 1995. The Rapporteur, working without study group, was Mr Giacomelli.

At its 326th Plenary Session held on 31 May and 1 June 1995 (meeting of 31 May), the Economic and Social Committee adopted the following Opinion by a unanimous vote.

1. The Committee notes that the Commission report accompanying the proposed directive concludes 'that in the absence of any hard evidence of significant distortive effects on the competitive situation of taxable persons involved in intra-Community trade caused by differences in VAT rates, there is no reason to assume at present that the internal market is functioning in anything other than a satisfactory manner'.

1.1. Nevertheless, as far as VAT is concerned, sight must not be lost of the benefit to the internal market's functioning of the objective of harmonization as defined in Treaty Article 99.

1.2. For the sake of completeness, it must be added that the study ordered by the Commission, which arrives at a similar conclusion to that above, was not able at the time of preparation (August 1994) to incorporate information derived from the experience of the new Member States (Austria, Finland, Sweden).

2. Despite the generally positive conclusions of the Commission report, however, problems have arisen in the case of certain specific agricultural outputs (namely, flowers, plants, etc.; wool, wood for industrial uses, wood for use as firewood), trade in which has been affected by the application of reduced or zero rates by some Member States. Since the adoption of Directive 92/77/EEC of 19 October 1992⁽¹⁾ the other Member States have been unable to take counteraction because they are no longer permitted to reduce their rates (Article 12(3)(d) of Directive 77/388/EEC). The aim of the proposed directive is to abolish this prohibition and hence to extend for two years the option, for all Member States, to apply or introduce reduced rates for these agricultural outputs.

3. Consequently, the Committee approves the proposed directive as necessary for the smooth functioning of the single market.

⁽¹⁾ ESC Opinion, OJ No C 332, 31. 12. 1990, p. 121; Directive 92/77/EEC, OJ No L 366, 31. 10. 1991, p. 1.

Done at Brussels, 31 May 1995.

*The President
of the Economic and Social Committee*

Carlos FERRER

Opinion on the proposal for a Council Regulation (EC) concerning Harmonized Consumer Price Indices⁽¹⁾

(95/C 236/03)

On 13 May 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 16 May 1995 (Rapporteur acting without a Study Group: Mr Pellarini).

At its 326th Plenary Session on 31 May and 1 June 1995 (meeting of 31 May 1995), the Economic and Social Committee adopted the following Opinion by a substantial majority, with five abstentions.

1. Under Article 109j of the EU Treaty, the Commission is instructed to report to the Council on the progress made in the fulfilment by the Member States of their obligations regarding the achievement of economic and monetary union. One criterion of convergence is price stability, assessed in relation to inflation in the three best performing Member States. Inflation has to be measured by means of the consumer price indices (CPI) on a comparable basis.

2. The purpose of the proposed Regulation is to authorize the Commission, with the assistance of the Statistical Programme Committee⁽²⁾ and the European Monetary Institute, to introduce a number of measures designed to achieve, in three stages over a three year period (1996 to 1998), comparable consumer price indices.

2.1. The first stage will be to draw up an interim set of consumer price indices, based on existing indices and excluding owner-occupied housing, health and educational services and certain other items treated differently by a number of Member States.

2.2. The harmonized consumer price index of the Member State (HCPI) would take effect from January 1997.

2.3. By January 1998 the entire system, to comprise a Monetary Union consumer price index (MUCPI), would be operational.

Comments

3. The Committee notes that the main purpose of the proposed Regulation is to produce harmonized

consumer price indices for the whole European Union in order to provide information relevant to the decisions to be taken by all the Institutions.

4. The Committee agrees in principle to the harmonization of national consumer price indices and the compilation of a MUCPI.

4.1. However, the Committee understands the Commission's intention is, in the first stage, to exclude from the indices large areas of consumer expenditure (i.e. owner-occupied housing, health, education and 'certain other' unspecified items) with no indication at the present juncture of how, or whether, these items will be satisfactorily incorporated subsequently.

4.2. Neither does the Commission proposal provide information on the weighting to apply to the different expenditure items included, or to be included, in the baskets.

4.3. As regards the MUCPI, the Committee feels that the inclusion, for calculation purposes, of a larger basket of products, reflecting the consumer habits of citizens throughout the Community would enhance its value as a statistical instrument devised to facilitate economic and monetary union.

5. The Committee endorses the proposed Regulation but points out that the statistical data omitted in the first stage must be included in the second stage (compilation of the HCPI) so that the convergence criteria provided for in the EU Treaty can be assessed fairly.

⁽¹⁾ OJ No C 84, 6. 4. 1995, p. 7.

⁽²⁾ Established by Council Decision 89/382/EEC, Euratom (OJ No L 181, 28. 6. 1989).

6. The Committee urges the Commission and the Council to ensure that the MUCPI is not put to inappropriate use.

7. The Committee wishes to be consulted promptly on the gradual compilation of the consumer price indices provided for in the proposed Regulation.

Done at Brussels, 31 May 1995.

*The President
of the Economic and Social Committee*

Carlos FERRER

Opinion on the proposal for a European Parliament and Council Directive amending for the sixteenth time Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations ⁽¹⁾

(95/C 236/04)

On 20 February 1995 the Council decided to consult the Economic and Social Committee, under Article 100a of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for 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 2 May 1995. The Rapporteur was Mr Leros.

At its 326th Plenary Session (meeting of 31 May 1995), the Economic and Social Committee adopted the following Opinion by a unanimous vote.

The Economic and Social Committee endorses the proposal for a sixteenth amendment, subject to the following general and specific comments:

1. General comments

1.1. The Commission proposal concerns restrictions on the marketing and use of hexachloroethane (HCE). More specifically, it bans the use of HCE:

- a) in aluminium production; and
- b) in the production of other non-ferrous metals, with some exemptions.

1.2. The purpose of the Commission proposal is:

- a) to protect the unity of the internal market by harmonizing the conditions under which HCE may be used;

- b) to protect the environment; and

- c) to meet its obligations under PARCOM. (PARCOM Decisions 92/4 and 93/1 provide for the phasing out of the use of HCE in the secondary aluminium industry by 31 December 1994 and 31 December 1996 according to the category, and in the non-ferrous metal industry by 31 December 1997 respectively, with exemptions for the magnesium alloys AZ81, AZ91 and AZ92 which are subject to review in 1996.)

1.3. The Commission proposal constitutes an amendment (the sixteenth) to Directive 76/769/EEC and lays down the framework for a Directive restricting the marketing and use of dangerous substances and preparations. It should be noted that the question of subsidiarity does not arise since the proposal does not introduce completely new legislation.

1.4. The effect of the 16th Amendment will be to replace HCE with substitutes which are environmentally benign, such as nitrogen, an inert material. Ultimately,

⁽¹⁾ OJ No C 382, 31. 12. 1994, p. 35.

the limitations proposed should provide a significant contribution to the protection of the North-East Atlantic environment (which was the purpose of the 1974 Paris Convention for the prevention of marine pollution from land-based sources, as implemented by the executive body, PARCOM).

2. Specific comments

2.1. Hexachloroethane (HCE) is included in the Black List of Council Directive 76/464/EEC on pollution caused by certain dangerous substances in the aquatic environment. Of course, it is not only HCE itself which pollutes the aquatic environment. Its use in the manufacture of non-ferrous metals leads to the release of chlorophenols and hexachlorobenzene, which, being cyclic hydrocarbons, damage the aquatic environment, as well as dioxins, which are among the most toxic substances known.

2.2. HCE is mainly used in industry for degassing molten metals, notably aluminium and magnesium alloys. The main users of HCE are aluminium manufacturers and processors and manufacturers of magnesium alloys. Its use has been almost completely phased out in the primary aluminium industry (manufacture) and only small quantities are used in the secondary aluminium industry (remelting). Another factor in this has been the ever rising cost of HCE associated with lower sales

volumes. Use has decreased significantly in recent years as degassing is more often done with nitrogen (an inert gas) and the addition of primary metal in a vacuum.

2.3. Considerable amounts of HCE are still used in making various magnesium alloys, and small quantities are used in small aluminium foundries. The Commission's proposed 16th Amendment takes account of the special situation of small aluminium foundries and manufacturers of magnesium alloys by allowing for a temporary derogation and for exemptions, respectively.

2.4. Significantly, the Commission document mentions the fact that industry, represented by the European Aluminium Association and by the Association Européenne des Métaux, whilst favouring more exemptions to the ban, did not oppose the proposal. One large Member State maintains a reserve on the basis that it favours more exemptions.

2.5. In conclusion, the ESC recognizes that the proposed Directive harmonizes restrictions on the use of HCE in non-ferrous metal manufacture in order to:

- a) prevent the creation of barriers to trade with EU states which are not party to PARCOM;
- b) ensure a high level of environmental protection; and
- c) enable the Commission to fulfil its legal obligations arising from the PARCOM Convention.

Done at Brussels, 31 May 1995.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the Draft Commission Directive amending Commission Directive 90/388/EEC regarding the abolition of the restrictions on the use of cable television networks for the provision of telecommunications services⁽¹⁾

(95/C 236/05)

On 27 February 1995, the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the abovementioned Draft Commission Directive.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 3 May 1995. (The Rapporteur was Mr Ramaekers.)

At its 326th Plenary Session (meeting of 1 June 1995), the Economic and Social Committee adopted the following Opinion by 98 votes to 72 with 4 abstentions.

1. Introduction

1.1. The Committee notes the Commission's desire to take measures to guarantee:

- the right of all operators to provide telecommunications services other than public voice telephony and services specifically excluded from Directives 90/388/EC and 94/46/EC;
- the effectiveness of measures to liberalize the telecommunications sector.

1.2. The Committee congratulates the Commission on its concern, before adopting the Draft Directive, to consult all the parties involved⁽¹⁾ on this matter and to collate the views expressed for the purpose of submitting a report on this consultation to the Council in June this year.

1.3. The Committee notes the Commission's desire to abolish forthwith the existing constraints on the use of cable networks for non-reserved services, so as fully to exploit the existing infrastructure's potential. The Commission does, however, also point out that the cable TV networks could provide even more services if additional investments were made.

1.4. The Committee notes the Commission's observation that a number of Member States have removed the restrictions on the supply of certain non-reserved data and services via cable television networks, while other Member States maintain significant restrictions.

The Committee would point out that these restrictions can only be justified on grounds of public interest or if they are considered to be fundamental requirements.

1.5. The Committee observes that the Commission takes the view that, under Directive 90/388/EEC, Member States retain the right to continue to allow only

national telecommunications organizations to provide voice telephony services up to a specified date, in order to enable these bodies to obtain sufficient revenue to establish a universal telephony network.

The Committee notes that a temporary ban on the provision of voice telephony via cable television networks could be justified for the same reason.

1.6. The Committee notes that the Draft Directive under review would not, the Commission believes, prevent the specific rules adopted by the Member States from being applied to television broadcasting.

2. General comments

2.1. The Committee points out that a public consultation procedure was open until 15 March 1995 in respect of the Green Paper on the liberalization of telecommunications infrastructures and cable television networks. It is unfortunate that the Committee does not have the findings of this procedure at its disposal when drawing up this Opinion.

The Committee believes that the Draft Commission Directive and the above Green Paper must be taken together.

2.2. In the Committee's view there is a link between the issues covered by the Draft Commission Directive under review and the general issues addressed by the Green Paper (Parts 1 and 2).

2.3. The Committee refers to its Opinion⁽²⁾ on the Commission's Action Plan entitled 'Europe's way to the information society' and, in particular, points 3.1.2.5, 3.1.2.6, 3.1.2.7 and 3.1.2.8. The Committee expressed concern over the schedule proposed by the Commission and noted that 'the Council meeting of 17 November

⁽¹⁾ OJ No C 76, 28. 3. 1995, p. 8.

⁽²⁾ OJ No C 110, 21. 4. 1995, p. 37.

1994 did not call for a liberalization of alternative infrastructure before 1 January 1998. In this connection it is to be regretted that on 21 December 1994 the Commission adopted a Draft Directive on the liberalization of cable distribution infrastructure from 1 January 1996. This initiative changes the rules of the game regarding timetables, and consequently industrial strategy'.

2.4. In point 3.1.2.8 of the same Opinion⁽¹⁾, the Committee pointed out that 'the Commission's proposed timetable for the liberalization of infrastructure cannot reasonably be introduced without having first clearly defined the concept of universal service — including the reasons for it, the stakes involved, the safeguard mechanisms that go with it, its developments, and the financial arrangements.' In that same context, the Committee welcomed the Commission's intention to provide a concrete solution to the problem of financing the universal service by means of a fund proposed in Part II of the Green Paper.

2.5. The Committee Opinion on the draft Council Directive amending Directives 88/301/EEC and 90/388/EEC on satellite communications (SEC(93) 1891 final)⁽²⁾ reiterated the view expressed in the Opinion of November 1993⁽³⁾ on The Situation in the Telecommunications Services Sector (COM(93) 159 final) that 'before liberalization of the entire voice telephony service it is necessary to define the scope, organization and financing of the universal service'.

2.6. The Committee notes that the Council was unanimous in its approval for implementing — by 1 January 1998 at the latest — liberalization of all telecommunications' services, including voice telephony, and all telecommunications infrastructures. A number of Member States have decided to act in advance of this deadline.

2.7. The Committee notes the speed of technological developments in the multimedia field and takes the view that the use of cable-television networks may lead to an expansion of services using these technologies.

2.8. The Committee considers that liberalization of the non-reserved services and the use of cable-television networks may usher in competition which could improve the quality of the proposed services and reduce the costs.

2.9. In this context, the Committee would draw attention to its desire to see the emergence of an information society which gives all EU citizens access to a comprehensive range of high-quality services, at reasonable prices. This goal does not require monopolies of any kind to be kept in place.

3. Specific comments

3.1. The Committee notes the Commission's desire to abolish restrictions on supplying mobile communications services via cable networks (Communication on the consultation on the Green Paper on mobile and personal communications (COM(94) 492 final chapter VI 2.1)); this matter has to be taken together with the issues covered by this Opinion.

3.2. The Committee also notes that in Part II of the Green Paper, the Commission states (page 84/85) that 'contributions to universal service should avoid delaying the development of new services, which currently have higher costs and lower volumes, such as mobile telephony. Such services might be exempted as long as, given their underlying costs and tariffs, they could not be said to undermine the ability of the voice telephony providers to finance universal service'.

3.3. This approach is unacceptable, since mobile telephony will capture the most profitable slice of the market, thereby depriving the static voice telephony network of these customers. There is therefore a real danger that a high quality mobile network will be created, accessible only to the most affluent users, alongside a static voice telephony network which is becoming increasingly unprofitable and therefore offers a lower quality service to less well-off users: such a development may thus flesh out the fears expressed in the Bangemann report and the Commission's plan of action about the emergence of a two-tier telecommunications society.

3.4. The Committee does, however, accept that continuing restrictions on the use of cable television networks could hamper the development of new interactive services. The Committee would, however, draw attention to its Opinion on the Commission Communication entitled 'Europe's way to the information society — an action plan'⁽¹⁾ which pointed out that 'at the same time as getting to grips with the social consequences of the new technologies, there is also a case for studying needs so that the information society can satisfy the real demand of European society and not merely supply services that offer immediate financial gain'.

3.5. The Committee notes that the proposal to abolish restrictions on the use of cable television networks with effect from 1 January 1996 could lead to action being

⁽¹⁾ OJ No C 110, 21. 4. 1995, p. 37.

⁽²⁾ OJ No C 127, 7. 5. 1994.

⁽³⁾ OJ No C 34, 2. 2. 1994.

taken before the clear, stable regulatory framework specified in the Commission's plan of action had been defined.

3.6. The Committee is particularly concerned that it will not be possible, by 1 January 1996, to clarify how the universal service is to be defined and how it is to be financed.

3.7. The Committee acknowledges that the issue of media convergence, particularly as regards telecommunications and broadcasting, is still a subject of considerable debate from a legislative point of view.

Point 4.2 of the Committee's Opinion on the Commission Communication entitled 'Europe's way to the information system'⁽¹⁾ states that: 'Adoption of the Commission's proposal for a programme to liberalize services and infrastructure must depend on certain pre-conditions first being fulfilled in such fields as the establishment of a stable and legal regulatory framework, particularly with regard to:

- media concentration and ownership;
- the definition and preservation of the concept of universal service;
- privacy;
- intellectual property rights;
- legal protection and security;
- the audiovisual sector:
 - ethnical considerations;
 - information;
 - culture;
- standardization: interoperability;
- tariffs (equalization, cross-subsidization)'.

The Committee notes that the Member States have already adopted rules for those services which have already been liberalized.

3.8. There is a considerable discrepancy in cable television network density in the various EU Member States. A Directive designed to abolish restrictions on the use of cable networks would have a considerably different impact from one Member State to another, particularly as regards the national telecommunications undertakings.

3.9. Whilst Greece and Italy do not have a cable television network, over 90 % of households in Belgium, Netherlands and Luxembourg are cable subscribers.

The Committee notes that although the United Kingdom is the only Member State which has so far authorized deregulated services and voice telephony to be provided via cable television networks, the network penetration rate in Britain is only 5 %. In France and the Netherlands a number of deregulated services may be provided via the cable television networks.

⁽¹⁾ OJ No C 110, 21. 4. 1995, p. 37.

3.10. Cable television operators, who frequently hold monopolies at local level, must not step into the shoes of state monopolies, as this would fly in the face of goals being pursued by the liberalization drive.

3.11. It is also essential to ensure that the establishment of new multimedia-type services does not give rise to competition on the voice-telephony market before rules are introduced in this respect.

3.12. It will also be necessary to introduce provisions under which the cost of the new multimedia services is not borne by all cable television subscribers.

Initially, the development of multimedia services will only cover professional applications; domestic applications, such as video on demand or home shopping, may be developed by the year 2004.

In this context the Committee congratulates the Commission on the provision, in Article 2, that cable TV operators shall keep separate financial accounts for their activities as network capacity providers and providers of telecommunications services.

3.13. We have to face the problem of reconciling (a) the rapid pace of technological development with (b) the slow pace of drawing up a regulatory framework. Against this background, consideration should be given to the establishment of a European regulatory body for the purpose of protecting the rights and interests of both citizens and consumers.

3.14. The Committee considers that, in order to clarify the objectives of the Draft Directive, the text of Article 1(1) should be amended to read as follows: '... any mainly wire-based infrastructure authorized by a Member State for the transmission and distribution of radio and television signals ...', and that in Article 1(2) the text should be amended to read as follows: '... with draw all restrictions in respect of the supply of signal transmission and distribution capacity on cable networks ...'.

4. Conclusions

4.1. The Committee acknowledges that the abolition of restrictions on the use of cable television networks will enable new telecommunications networks to be developed.

4.2. The Committee does, however, take the view that the restrictions should not be abolished until a clearly-defined regulatory framework has been established, primarily with regard to the universal service.

4.3. In the Committee's view, the financing of the universal service is a matter of fundamental importance; before any steps are taken to liberalize the use of cable television infrastructures, it must be clearly specified

which service providers will have to contribute to the fund for financing the universal service.

4.4. The Committee considers that it is particularly important to determine the contribution of mobile communications suppliers to the funding of the universal service before liberalizing the use of cable television networks.

4.5. The Committee points to the different penetration levels of cable networks in the various EU Member States and the very patchy impact that the Draft Directive would have. Implementation of the Directive would also even create unfair competition for some national telecommunications undertakings; some of them would be exposed to real competition, while others would only be theoretically exposed to compe-

tion, as there are no cable television networks in their countries.

4.6. The Committee notes that the implementation schedule was discussed by the Council on 17 November 1994. The Council did not take a decision on the abolition of the restrictions on the use of cable television before 1 January 1998.

4.7. For all the above reasons, the Committee considers that it would be premature to bring the Directive into force by 1 January 1996.

4.8. Bearing in mind the decision taken by the Council of Ministers, the different stages of development of cable television networks in the various Member States and the different impact which the Draft Directive would have on the various Member States, the Committee takes the view that each Member State should be free to decide whether it wishes to implement the proposed measure before 1 January 1998.

Done at Brussels, 1 June 1995.

*The President
of the Economic and Social Committee*

Carlos FERRER

APPENDIX

to the Opinion of the Economic and Social Committee

The following amendment was defeated in the course of the debate but received at least a quarter of the votes cast:

Counter Opinion

Replace the text of the Opinion of the Section by the following:

1. Introduction

1.1. Commission Directive 90/388 of 28 June 1990 removed restrictions on the provision of value-added telecommunications, data and private voice telephony. This Directive has been identified as a cornerstone of the EU framework for liberalizing the European telecommunications market.

1.2. Council Resolution 93/C 213/01 of 22 July 1993 on the further development of the telecommunications market set the basic framework for the evolution of the regulatory environment in the EU and has established 1 January 1998 as the date for full liberalization (with additional transition periods for certain Member States).

1.3. Regulatory restrictions currently prevent the use of alternative infrastructures, such as the use of cable TV networks, for third party or self-provision of telecommunication services which are already liberalized.

1.4. The European Parliament Resolution of 20 April 1993 (A3-0113/93) and the Council Resolution of 22 December 1994⁽¹⁾ have called upon the Commission to adopt measures to take advantage of the potential of existing cable TV infrastructure for telecommunication services and to abolish without delay the existing restrictions in Member States on the use of cable networks for non-reserved services.

⁽¹⁾ OJ No C 379, 31. 12. 1994.

1.5. Some Member States have already abolished restrictions on the provision of some data and/or non-reserved telephone services on cable TV networks. At least two Member States permit voice telephony. (See the Green Paper COM(94) 682 — Section III.3 for full details).

1.6. As part of the strategy for preparing for the information society, the Commission attaches considerable weight to the many calls for faster but limited infrastructure liberalization now. The Committee anticipates that the Commission will be putting forward separate proposals to amend Directive 90/338 progressively.

1.7. The Commission is currently working on an overall regulatory framework environment which should be in place to allow the full liberalization of telecommunication services and networks by 1 January 1998. According to Council Resolutions, the required proposals and measures for this framework must be made before 1 January 1996.

1.8. As part of this process, the Commission has submitted this Cable TV Network proposal. The Committee is pleased that the Commission is consulting all parties involved before adopting the Draft Directive⁽¹⁾ and will submit a report on this consultation to the Council in June this year.

2. Commission proposal

2.1. Under Directive 90/388/EEC telecommunications services, other than voice telephony to the general public and those services excluded from the scope of the Directive, were opened to competition.

2.2. The regulatory restrictions preventing the use of alternative infrastructures for liberalized services are the cause of bottlenecks in areas such as data communication, value added services, and the provision of data and voice services to corporate and closed user groups.

2.3. The Commission proposal withdraws all restrictions on the use of transmission capacity on cable TV networks, lets operators use the cable networks to deliver their services and authorizes interconnection with the public telecommunication network. In addition it requires transparent and non-discriminatory behaviour where a single operator provides both telecommunications and cable TV networks, and separation of financial accounts.

3. General comments

3.1. The Committee welcomes the Commission proposal.

3.2. In many Member States the proposal will have little initial effect since cable TV networks are either very local and do not offer national coverage or are nonexistent. Furthermore the time required to create a cable TV network is substantial, as is the cost.

3.3. However, where cable TV networks exist and service providers wish to use them, this proposal is a move in the right direction. It will also permit planning for the future.

3.4. The point about planning is an important one given the limited technical capacity of many incumbent operators' networks and the greater capacity and improved technical quality available from the TV cable. When supplemented with the rapid advantages coming from new technologies, this will offer opportunities for a variety of new services and encourage growth in the market.

3.5. The Committee is aware of concern about possible job reductions. However the Committee notes from experience in many instances that potential job reductions may be offset by job creation brought about by new products and services.

3.6. The Commission has assured the Committee that this proposal will neither prejudice nor compromise proposals concerning the universal service which are eagerly awaited (Part II of the Green Paper).

(1) OJ No C 76, 28. 3. 1995, p. 8.

4. Specific comments

4.1. Article 1

Whilst welcoming the extension of the Directive to include cable TV networks, the Committee regrets that the proposal does not encompass other alternative infrastructures, such as those available from a number of rail and utilities' networks. The Committee hopes that this will be rectified soon.

4.2. Article 4

The Directive should come into force, as proposed, on 1 January 1996. It is an important and positive step forward for those Member States who already have cable TV (in part or whole). It will have a minimal effect on other Member States.

5. Conclusions

5.1. Whilst the Committee welcomes the Commission's proposal, it is aware that many important telecommunication and related matters remain to be resolved before the full effect of the new less restrictive regulatory arrangements can be seen. Such matters, many of which are referred to in the Committee Opinion on the Information Society (CES 193/95) are:

- universal service in telecommunications
- open access and interconnection to public telecommunication networks and services
- licensing in the field of telecommunication
- fair competition environment
- the international agenda
- the employment challenge
- media concentration and ownership
- intellectual property rights
- legal protection and privacy.

The Committee notes the proposed timetable in the Green Paper Part II and looks forward to receiving and commenting upon Commission proposals. In the meantime, this proposal should proceed.'

Result of the vote

For: 77, against: 97, abstentions: 2.

Opinion on the proposal for a Council Directive on the collection of statistical information in the field of tourism⁽¹⁾

(95/C 236/06)

On 26 April 1995 the Economic and Social Committee, acting under the second and third paragraphs of Rule 23 of its Rules of Procedure, decided to draw up an Opinion on the abovementioned proposal.

The Section for Regional Development and Town and Country Planning, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 19 May 1995. The Rapporteur was Mr Bernabei.

At its 326th Plenary Session (meeting of 31 May 1995), the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction

1.1. The European tourism sector differs positively from other areas of economic activity in that there are ever new possibilities for substantially increasing its contribution towards Community GDP.

1.2. It is now widely accepted that tourism has a role to play in development and economic integration, and this role can also be enhanced by providing basic statistics on tourism at Community, national and regional level.

1.3. The Single Market could boost EU citizens' propensity to travel, and not just for business and holidays, but for other reasons too (study, research, health reasons, etc.), thanks to the removal of internal borders and the socio-economic trend towards more leisure-time. The wish to take advantage of the greater opportunities provided by a single continent-wide market is also a factor.

1.4. Quick access to reliable, comparable and up-to-date statistics is vital for a full understanding of the sector. It can help the tourist authorities, at all levels, to work out a coherent policy for tourism, the private sector to assess and develop its market strategies, and customers to make an informed choice thanks to a better, more exhaustive picture of supply and demand.

1.5. The development of a Community methodological framework for data collection and processing is necessary to ensure comparability of statistics whilst remaining compatible with existing international standards (OECD and WTO), which currently provide a clearer, more detailed picture of the situation.

1.6. The data collection system cannot be developed independently of the priority-areas of computerization and data communication networks. Thanks to the European information superhighway, these are vital for reducing space-time gaps for all sectors, and particularly for tourism. The use of data communications technology ushers in a new operative philosophy, making for a more interactive system for public and private operators.

1.7. Sustained Community efforts to develop a harmonized methodological framework for statistics on tourism are vital in paving the way for the definition and implementation of a genuine European tourism policy. In this respect the Committee would reiterate the need for a fruitful discussion of the Green Paper on tourism, presented by the Commission on 4 April 1995 (COM(95) 97 final), particularly in view of the fact that tourism policy will be included in the 1996 revision of the Maastricht Treaty.

2. General comments

2.1. The Committee deeply regrets that the Council did not deem it necessary to consult the ESC on such an important issue for the development of tourism policy, despite the fact that the Committee has contributed to the debate on several occasions.

The Committee largely endorses the Commission proposals to establish a harmonized information system at Community level on tourism supply and demand. These proposals respond to recommendations made on several occasions by the ESC, the European Parliament and the Athens European Council of 15 April 1994, and represent a further step forward in standardization of definitions and towards compiling complete, reliable statistics on tourism. However, the Committee feels that there may

⁽¹⁾ OJ No C 35, 11. 2. 1995, p. 5.

be a case for introducing instruments which are more binding than a Directive, in order to achieve standardization of definitions and provide common, consistent reference categories.

2.2. The Committee would point out that it would be advisable to set up forthwith a data collection methodology which is compatible from the outset with existing and future Community computerization and data communications installations. A data communications system would pay for itself in just a few years (five or six), and would provide more sophisticated appraisals for the same expenditure and in real time.

2.3. The proposed measures to enhance coordination between national statistics organizations are to be endorsed, given the continuing discrepancies, particularly in the collection of data on international travel and the way in which accommodation is dealt with, and the lack of harmonization in procedure and basic definitions.

2.4. The geographic breakdown used by Community statistics on tourism should be in line with the WTO breakdown and, in any event, must be amended to include the new EU Member States: Austria, Finland and Sweden.

2.5. Furthermore, the proposed measures could make up a preliminary frame of reference for the establishment of a reliable subsystem of macroeconomic variables (income from tourism/GDP) in order to assess the economic contribution of tourism at regional, national and Community level, and to encourage the greater integration of tourism policies with other EU activities which was urged in the Opinion on Tourism adopted on 14/15 September 1994 (CES 1021/94).

3. Specific comments

3.1. Article 1

The Committee would include a reference to data communication networks by inserting 'on paper or via computer and data communication networks' (cf. 1.6 above) after 'transmission' (line 4).

3.2. Article 2

In Article 2(a), after 'the capacity' it would be advisable to insert 'and occupation rates'.

The references to the NACE classification for collective accommodation lack clarity and are, at any rate, out of step with those contained in the EEC Regulation 761/93 referred to. Furthermore, a more comprehensive

treatment of accommodation types would require more detailed headings, to include holiday flats, holiday villas and rented rooms and other accommodation.

The classification could be better set out as follows:

Types of tourist accommodation available to the public:

- a) Hotels and similar establishments⁽¹⁾ (NACE group 55.1);
- b) establishments other than hotels⁽²⁾ (camping sites and provision of other short-stay accommodation, NACE group 55.2), broken down as follows:
 - b 1. youth hostels and mountain refuges (class 55.21);
 - b 2. outdoor tourism (camping sites, holiday camps and caravan sites)⁽³⁾;
 - b 3. holiday lodgings (class 55.23);

⁽¹⁾ Whilst hotels make up the most clear-cut category for statistical purposes, there are considerable differences from country to country (Germany, for instance, has no hotel classification system), and from region to region (the classification criteria used in some Italian regions differ from those used by other regions). It is therefore suggested that the heading hotels and similar establishments be used alone, thus ignoring the headings for motels, and hotels with/without restaurant, which are difficult to quantify. More specifically, 'hotels and similar establishments' means: hotels in the proper sense of the word or 'hoteles' (Spain); tourist/service apartments; motels; boarding houses; hostales (Spain). National statistics organizations should state the coverage for the individual headings.

⁽²⁾ Establishments other than hotels, divided into the maximum number of subcategories. Individual national statistics organizations may use just one of the specific headings, but they must then declare which one they are using. There may even be some countries which do not collect statistics on tourism in establishments other than hotels.

⁽³⁾ Heading b 2. covers the outdoor tourism category, including holiday camps, which would otherwise appear together with other types of accommodation. Here too, the individual national statistics organizations must report on coverage.

b 3.1. holiday flats ⁽¹⁾ (subcategory 55.23);

b 3.2. other provision of lodgings n.e.c. (subcategory class 55.23) ⁽²⁾.

3.3. Article 2(b)

It would be advisable to insert, after 'guest flows' (line 1), the phrase 'of tourists-customers travelling for holidays, business or any other reason'. The purpose would be to introduce the concept that the tourist is a customer who buys goods and services, just like any other.

After the heading 'inbound tourism' (2nd last line), it would be advisable to add 'or international tourism' (OECD/WTO terminology).

3.4. Article 2(c)

National travel includes outbound travel (abroad) and domestic travel for holidays, business or any other reason, and is calculated according to the number of nights spent at the destination.

The following simple system should clarify this concept:

⁽¹⁾ Holiday flats includes rented accommodation, rented rooms, holiday homes, cottages, various types of service accommodation, etc. Statistics relating to individual headings may be collected and reported. However, even when each national statistics organization gives the overall figure for b 3., it must still report on coverage for the different headings, the classification criteria used and the problems encountered. This is one of the most controversial aspects of the statistics collection system, both at Member State and Community level. The greatest caution must therefore be used. We cannot, however, ignore a category which, in many countries, and according to reliable sources, accounts for two thirds of all rooms and beds available for tourism. Owner-occupied holiday homes and flats, or those occupied by the owners' family and friends, are wholly excluded from the survey. Flats for business use are also classed as holiday flats, whilst ordinary student flats are not. This classification is to be regarded as provisional.

⁽²⁾ This heading covers all other categories, such as rooms and beds on cruise liners, in religious institutions, etc. Individual statistics organizations must report on coverage. Furthermore, it should be pointed out that some types of accommodation have not been included, e.g. holiday dwellings, since this category relates more to the demand side. The appeal of farmhouse accommodation, for example, comes from the fact that it is private accommodation in a farming area. It will therefore be dealt with under statistics relating to demand.

Nationals in home country	Nationals abroad	National travel
Foreign visitors		
National tourism	Outgoing	

3.5. Article 7(2)

The Committee considers that the time allotted for compilation of annual figures is too lengthy in comparison with that for quarterly and monthly figures: all final figures should be submitted within six months at the most.

3.6. Article 7(3)

A more forceful wording seems better suited to the greater emphasis to be placed on the increased use of data communication services. This could be achieved by changing 'may establish' to 'shall establish'.

3.7. Appendix

3.7.1. With reference to fig. A.1.2, given that the 'room' is increasingly the main reference unit for tourism, the Community might look further into the possibility of including the number of rooms, and for campsites, the number of tent/caravan-spaces under the heading 'other collective accommodation'.

3.7.2. With reference to fig. C.1-2, data on the characteristics of the trip should be standardized in accordance with those used worldwide.

3.7.3. In fig. C.1.2.4, the heading 'specialized accommodation' should either be defined in greater detail or deleted, whereas the collective accommodation category should be explained further, so as to avoid misinterpretation.

3.7.4. The Committee reiterates the need for information on tourist expenditure (fig. C.1-4), so that supply strategies can be more in tune with demand. It is to be hoped that national statistics organizations will agree on common standards for the various tourism domain categories.

4. Conclusions

4.1. The Committee wishes to congratulate the Commission on its work, but feels that the above comments should be taken into consideration when the issue is discussed in depth.

4.2. The Committee believes that harmonization of existing statistics and improvement of the data to be used in a more efficient and comprehensive European system of tourism statistics can: (a) promote the desired improvement in the quality of services, (b) provide clearer guidance for public and private operators — particularly smaller firms — by giving a more reliable overall picture of the situation; (c) further cooperation between Member States and other international organizations; and (d) provide valuable assessment criteria for a European policy on tourism.

4.3. In keeping with the recommendations made in the ESC Own-initiative Opinion on tourism (cit.) regarding the need to develop new tourist products in

order to involve more EU citizens in the various tourist activities, the Committee would wish to see the harmonized data collection system gradually extended to cultural, social and youth tourism, and also to rural tourism, which has already been the subject of ESC and COR Opinions (cf. Own-initiative Opinion CdR 19/95 of 2 February 1995).

4.4. The Committee would emphasize the need for a thorough debate on the Green Paper on tourism, so that operators — and SMEs in particular — will have access to a methodical Community frame of reference, and thus be able to tailor their strategies to the continuous changes which are so typical of the tourist industry. The debate on the Green Paper is indispensable if tourism policy is to be fully incorporated in the revised Treaty.

Done at Brussels, 31 May 1995.

*The President
of the Economic and Social Committee*

Carlos FERRER

Opinion on the Fifth Periodic Report on the Social and Economic Situation and Development of the Regions of the Community

(95/C 236/07)

On 28 October 1994 the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the Fifth Periodic Report on the Social and Economic Situation and Development of the Regions of the Community.

The Section for Regional Development and Town and Country Planning, which was responsible for preparing the Committee's work on this subject, adopted its Opinion on 19 May 1995. The Rapporteur was Mr Christie.

At its 326th Plenary Session (meeting of 31 May 1995) the Economic and Social Committee adopted unanimously the following Opinion.

1. Introduction

1.1. The Fifth Periodic Report provides a detailed account of the movement of regional economic indicators during the recent past and presents an analysis of the forces shaping the economic development of the regions of the Community. In addition the Report identifies a number of issues and problems that will confront the regions during the remainder of the decade.

1.2. The Committee welcomes the presentation of the Fifth Periodic Report as an opportunity to reflect on the evolving pattern of regional economic performance across the European Union. It provides a valuable insight also on the development of policies designed to secure a greater measure of economic and social cohesion in the EU, an objective that the Committee considers central to the process of economic and political integration in Europe.

1.3. On this occasion the Commission presents an analysis that incorporates key questions concerning the challenges presented to economic and social cohesion posed by the enlargement of the EU to include countries of Eastern and Central Europe and the drive to achieve monetary union by the end of the decade. These are major issues and the Fifth Report identifies a number of problems that must be addressed in both contexts.

1.4. The Fifth Periodic Report is presented at a time when the EU economy is emerging from a particularly sharp recession. It therefore provides a timely reminder that the fundamental determinant of regional economic performance is not the efficacy of the Structural Funds per se, but the broader macroeconomic conditions prevailing across the EU economy as a whole.

1.5. However, the Economic and Social Committee takes this opportunity of restating the importance it attaches to the Structural Funds as one of the critical instruments for the development of the European Union. It is important to emphasize the complementary nature

of the Structural Funds, i.e. they can only be effective if they are complementary to effective regional policies at the national level.

2. Structure of the Report

2.1. The Fifth Periodic Report is divided into four sections:

The first section reviews the main regional trends over the immediate past, setting these into a longer term perspective. In particular, and as has been the case in previous Reports, data on regional trends in output, employment and unemployment are recorded.

The second section considers the factors underlying regional economic disparities and assesses those factors that together contribute to regional competitiveness. In explaining the development of relative regional economic prosperity, emphasis is placed on infrastructure and human resource endowments, foreign direct investment and the role of research and technological development (RTD).

The third section of the Report considers the economic development record in those regions eligible for assistance under the Structural Funds, and previews the development of the Structural Funds to the end of the decade.

The final section of the Report considers the implications for economic prospects in the regions resulting from further moves designed to deepen and widen European integration. In particular, the impact of monetary union and another round of enlargement are considered.

3. General Comments

3.1. The broad picture presented in the Report is one in which there has been a limited degree of convergence in per capita GDP at the level of the Member State since the mid-1980s. Real convergence has been particularly

successful in Ireland, Spain and Portugal, although not in Greece. In Ireland this success in recording a growth in per capita GDP is explained by changes in macro-economic policy, foreign direct investment, emigration, and the operation of the Structural Funds. Both Spain and Portugal also benefitted from the implementation of macroeconomic stabilization programmes as well as from an increase in exports. This does not alter the fact that real convergence, at least at the national level, is best achieved during periods of economic growth.

3.2. The Committee notes, however, that at the level of the region the picture is more mixed with the poorest regions failing to narrow the gap with the richer regions. This reinforces the importance of targeting assistance at the Union's poorest regions. However, it remains the case that despite significant financial resources being allocated to these Objective 1 regions, convergence appears to be taking place extremely slowly — even during periods of generally high rates of economic growth for the EU as a whole. The Report clearly demonstrates that it is in these regions that the factors which are required to achieve regional economic competitiveness are in shortest supply.

3.3. As is expected during periods of recession, unemployment increased across the EU since 1991. This has resulted in a widening of regional disparities in unemployment. An added problem is that the EU labour supply continues to rise at a faster rate than previously forecast, particularly in the regions with highest unemployment.

3.4. The Report stresses that the prospects for a reduction in unemployment, and regional disparities in unemployment, is linked to overall economic performance at the EU level. The Committee endorses this position although it recognizes that a certain degree of disparity is inherent in a dynamic, market oriented society. Nevertheless the Committee urges that attention is given to the consequences for unemployment in the implementation of other major EU policies.

3.5. It is clear that whilst the reformed Structural Funds are having an overall positive impact upon cohesion, that this is occurring extremely slowly and is prone to interruption and reversal during recessionary periods. The resources available to the Structural Funds may require to be increased significantly if cohesion is to occur more rapidly and to lead to a sustained improvement in the economic conditions in the less developed and declining regions.

3.6. It is inappropriate to regard the Structural Funds as sufficient in themselves for the development needs of particularly structurally weak areas. To this extent national and regional efforts to secure economic and social cohesion sometimes do not receive sufficient support. As the Fifth Report makes clear, much depends

on the effectiveness of national regional programmes as well as general economic (cyclical) developments. Whilst the Structural Funds continue to impact favourably in the drive to secure a greater measure of cohesion, they do so only within constraints determined by national economic policy programmes and the broader external environment.

3.7. In future Periodic Reports the Committee would welcome a general commentary by the Commission indicating the impact that national policies were having on economic and social cohesion. Two issues in particular require closer attention. The first concerns the extent to which national measures are promoting domestic economic development in ways that might run counter to the strict principles of EU competition policy. Where such policies are being undertaken by certain Member States, this will tend to make cohesion more difficult to achieve. Secondly, although the Committee underlines the importance of sound fiscal policy within Europe both for its own sake and for achieving a monetary union, it would point to a risk that as some Member States implement the convergence programmes designed to enable progress towards full monetary union, the associated reduction in fiscal expenditure could further weaken the economic prospects of the poorer regions. In turn this may jeopardize the delivery of national policy measures aimed at regional economic development.

3.8. Although the Report does include commentary on the likely consequences of monetary union and enlargement for the regions, there are a number of significant omissions from this analysis. Reform of the CAP is bound to have a major impact on the economic prospects for the EU's weakest regions; that is, those in which employment and income are dependent upon agricultural activity. Moreover, further liberalization of international trade as embodied in the Uruguay Round final agreement is set to impact adversely upon a number of the EU's weakest regions, particularly those with a significant textile industry. The Committee notes that the Commission is required to present a comprehensive cohesion report by the end of 1996. It is essential that the effect of both CAP reform and trade liberalization are given full consideration in that report. In addition further detailed analysis of the impact of monetary union and enlargement on cohesion is required in that report. The CAP reforms, the new GATT arrangements, monetary union, and enlargement could all work strongly against cohesion in the European Union. The Cohesion Report must address these problems in detail and identify how cohesion can be achieved in the context of these new developments.

4. Specific Comments

4.1. The Report shows that, in 1991 and excluding the new German Lander, the per capita GDP in the top 10 regions was some 3.6 times greater than the bottom 10. The present disparity is wider than existed in 1980, due primarily to the effect of the second and third enlargements of the EC. If the new German Lander are included in the current analysis, then regional disparities increase to 4.5 times.

4.2. The inter-regional disparities in rates of unemployment are worse than disparities in per capita GDP. The rate of unemployment in the 10 most affected regions is some 7 to 8 times higher than in the 10 least affected regions. There is thus no convergence in regional unemployment trends and the evidence shows a strong regional disparity in the 'job-content' of economic growth.

Taken in isolation, these statistics paint a somewhat disappointing picture. However, the Report provides little by way of direct explanation for the underlying cause of apparently worsening regional disparities in unemployment and, although to lesser extent, per capita income. In particular, to what extent do the trends identified reflect underlying problems with the Structural Funds (e.g. insufficient resources, a need to target assistance even more narrowly, inappropriate planning, inefficient application of financial resources and poor project appraisal, etc.) and to what extent do these trends reflect external influences (e.g. the impact of national economic policies, low productivity, recessionary forces, etc.)?

4.3. The ESC welcomes the careful analysis contained in the second section of the Report. By focusing on infrastructure, human resources, foreign direct investment and research and technological development the Commission indeed has identified the major factors underlying regional economic performance. Moreover, by indicating the intra-EU divergence in the endowment of these productive factors the Report clearly shows what is required before the weaker regions will be in a position to record sustained economic growth.

However, what is much less clear from the Fifth Report are the mechanisms — both national and Community — that are required before real progress can be made in securing a greater supply of these productive factors in the weaker regions.

4.4. The Economic and Social Committee notes that many features of this analysis of major factors affecting the underlying regional economic performance, in chapters 4.5 and 6, have been presented using information only at a national level and sometimes for only four

countries: Ireland, Portugal, Spain and Greece. Whilst there may be statistical problems in obtaining regional information, the Committee would ask the Commission to attempt to remedy this deficiency in later reports by seeking information on a regional basis, including each of the Objective 1 regions.

4.5. It is evident that many of the factors underpinning strong growth are self-reinforcing and self-sustaining. There are clear and self-reinforcing links between infrastructure and human resource development on the one hand and inward investment and RTD on the other hand. Consequently, both virtuous and vicious circles are likely to be a feature of regional economic development. That is, regions that presently are handicapped by an absence of productive factors will have to make increasingly greater efforts to break the vicious circle whilst it is equally likely that the strong regions will find it increasingly easier to attract a greater supply of productive factors.

It is disappointing that the Report provides no policy guidelines about mechanisms that might interrupt these self-reinforcing tendencies. Undoubtedly some emphasis can be given to labour market reforms of the type proposed in the Commission's paper, 'Growth, Competitiveness and Employment'. However, beyond this there clearly is a continuing need for public policy measures designed to promote the economic potential of the less favoured regions.

4.6. The Committee endorses the importance placed on FDI (Foreign Direct Investment) as a mechanism for promoting growth and employment in the Community's less favoured regions. However, although the importance of FDI is to be recognized, it is also worth noting that FDI by itself is unlikely to ensure that indigenous RTD capabilities will increase. Public policy may well be required to ensure that technological skills are diffused around regions and that local firms adopt best practice technologies wherever possible. It is to be stressed that the application of RTD is as relevant to the traditional sectors of the economy as it is to the high technology industries.

4.7. In discussing factors determining competitiveness, the Report concentrates on the volume and availability of key factors. However, locational decisions are also based on straightforward cost of production considerations. Consequently, public policy has to be aimed at delivering a supply of key productive factors at a competitive cost.

4.8. The Committee regrets that the Report did not include information, in parallel to Table A.19, (which illustrates the changes to unemployment) which showed the changes in employment in recent years in the Objective 1 regions. In some regions there is little correlation between changes in employment and unemployment and where this occurs an explanation may be useful in the evaluation of policy effectiveness. In addition, the Committee would welcome the publication of information on changes in value-added per person in employment in the Objective 1 regions so that trends in productivity may be examined.

4.9. The Committee considers that greater stress should be given to the role of services in generating lasting economic activity. The service sector itself can be a major source of employment and income. This is especially true in the case of the tourism industry which is a key sector in many rural and peripheral areas. Moreover, the availability of high quality services (financial services, management advice, marketing assistance, quality control techniques, managerial training, etc.) is generally regarded as a key input for the development of manufacturing industries, especially those with a high value added content in production.

The Committee would wish to see the question of the services sector addressed specifically in a subsequent Periodic Report.

4.10. In addressing the problems of peripherality the Report fails to identify that what is crucial is not peripherality per se, but the disadvantage in peripheral areas of securing economic opportunities vis-à-vis the core parts of the Union. The core parts of the Union benefit from a range of economic advantages associated with agglomeration and proximity to a large market. On the other hand peripheral areas are seriously disadvantaged in these respects. Although it is likely that investment in transport and communications infrastructure in the peripheral areas will improve their economic opportunities, what matters most at the end of the day is the level, and rate of growth of, labour productivity. This suggests that greater weight needs to be given to policies which directly add to labour productivity, such as training and education. Consequently, public investments in transport and communications are to be regarded as a necessary but not as a sufficient condition for economic growth in the peripheral areas of the EU.

4.11. The Report notes that the transition to monetary union is likely to impose additional constraints on the regions, and this could have an important effect on economic and social cohesion. In other words that monetary union carries with it risks for the weaker

regions and Member States. This is a well founded concern. To date it has not adequately been addressed by the Commission. The Fifth Report also fails to fully assess the possible regional economic consequences arising from monetary union. Further, the Commission should also consider the implication for economic and social cohesion of a partial move to monetary union — that is, one which involves a small number of core countries to the exclusion of the weaker, cohesion, countries.

The Committee's concern is twofold. As already indicated, the Committee is concerned that national policy measures designed to satisfy the convergence criteria will, at the same time, impose a severe adjustment burden on the weaker countries of the EU. It is difficult, for instance, to envisage fiscal policy in some weaker economies meeting the convergence criteria in the absence of a significant reduction in public spending. Such a course of action is likely to impact adversely on the weaker regions to the extent that public spending on policies designed to deliver on regional economic assistance are reduced.

A second concern involves the consequences for countries participating in — and those seeking membership of — the currency union in the event of an adverse external shock that affects one country in isolation. In that instance the country will be unable to respond to the shock by changing its monetary policy, including its exchange rate. This raises the difficult problem of how best the affected country might otherwise deal with this shock. In virtually all monetary unions this type of adjustment problem is assisted by an automatic inter-regional transfer of funds through the operation of fiscal policy. However, the Structural Funds presently are wholly inadequate to serve this purpose. This raises important questions concerning how individual countries might manage what could be an extremely difficult adjustment process.

4.12. It is clear that a future enlargement of the EU to include the countries of Central and Eastern Europe will pose a major challenge to the Structural Funds. This is likely notwithstanding the considerable advances expected to be made in the economic prospects of those countries during the next few years. It is vital that the Commission provides detailed estimates of the additional Structural Funds required as a consequence of enlargement.

Moreover, as implied in the Fifth Report, the Visegrad countries themselves already display 'dualistic' tendencies whereby the most rapid rate of economic development will occur in a very few core areas with the agriculturally dependent hinterland area in particular significantly lagging behind. Therefore, in addition to the regional problems commonly identified with the Visegrad countries, there will almost certainly be added

difficulties created by the accession of agriculturally dependent areas against a background of fundamental reforms to the Common Agricultural Policy.

4.13. The impact of an Eastern enlargement will also be felt more intensely in those EU Member States whose production pattern is similar to that of the acceding countries. This is especially true for Member States with a high dependence on agriculture and the traditional industries. To the extent that this occurs, and where there is a displacement of economic activity from an existing Member State to a new Member, a response through an increase in the activities of Structural Funds also will be expected.

4.14. Equally, enlargement will impact on countries who remain outside the EU and, inevitably, will disturb the prevailing pattern of trade with such countries, many of whom occupy a privileged place in the hierarchy of EU external economic relations.

5. Conclusions

5.1. Whilst comprehensive in parts, the Fifth Report suffers from an excess of description and insufficient analysis of the trends identified in the Report. This Committee would wish to see much more explanation for the actual pattern of economic development in the Objective 1 and 2 regions themselves with a view to

improving the design and implementation of measures under the Structural Funds.

5.2. The contribution of the Structural Funds must be set in the context of national economic measures as well as external economic developments. The Committee would wish to see more attention given to assessing the Structural Funds within these constraints. Otherwise an unrealistic set of expectations concerning what the Structural Funds can achieve is likely to emerge.

5.3. Given the fact that the end of the decade is the next opportunity for reforms to be made in the operation of the Structural Funds, it is important that the Commission give considerable thought to the needs of the weaker regions before that date. Consequently, the next Periodic Report should contain more analysis regarding the regional consequences of monetary union and enlargement — both internally and on our external partners.

5.4. By the time of the next Periodic Report the regional consequences of both CAP reform and the trade liberalization measures agreed upon at the Uruguay Round should be becoming clear. These issues should be addressed in some detail at that time.

5.5. The Commission is required under the Treaty to report on cohesion by the end of 1996. That report must address frankly the problems for cohesion arising from the CAP reforms, the new GATT arrangements, monetary union and future enlargements. All of these issues are important to the social and economic situation of the regions of the Community.

Done at Brussels, 31 May 1995.

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

Opinion on the Draft Notice to Member States laying down guidelines for an Initiative in the framework of the special support programme for peace and reconciliation in Northern Ireland and the Border counties of Ireland

(95/C 236/08)

On 21 February 1995 the Commission decided to consult the Economic and Social Committee on the Draft Notice to Member States laying down guidelines for an Initiative in the framework of the special support programme for peace and reconciliation in Northern Ireland and the Border counties of Ireland.

The Section for Regional Development and Town and Country Planning, which was responsible for preparing the Committee's work on the subject, made a fact-finding visit to Northern Ireland on 20-21 April 1995. The Rapporteur was Mr Frerichs.

At its 325th Plenary Session (meeting of 27 April 1995) the Economic and Social Committee unanimously adopted the following Opinion.

1. Committee's main recommendations

1.1. The Economic and Social Committee in principle welcomes the Community Initiative for Northern Ireland and the Border counties of the Republic, with initial funding of MECU 300.

1.2. The Committee considers that the Initiative will make a major contribution to the economic and social underpinning of the peace process, promote reconciliation and tolerance between the communities, and have a positive impact on the European Union as a whole.

1.3. It is important that the programme implementing the Community Initiative be balanced. It should not consist exclusively of high-profile, short-term actions, but should also comprise measures aimed at longer-term structural improvements. Activities should not be spread too thinly.

1.4. It is very important that the right priorities be established. Productive investment and industrial development should be encouraged in order to generate employment and thus open up new opportunities for the population. Particular emphasis should be placed on social inclusion; the particularly vital need for this in Northern Ireland and the Border counties is not adequately catered for.

1.5. In the field of social inclusion, priority should be given to measures enabling the long-term unemployed to readjust to work; these should include local socially-orientated job creation schemes aimed at reintegration of the unemployed, vocational retraining and further training programmes, and measures aimed at young people, who in many areas make up more than half the

population. It is important to give the younger generation a better start in life in order to boost their confidence in the future. This should begin with schemes for pre-school-age children and their parents.

1.6. Past experience has highlighted the important and valued role of local economic and social interest groups in alleviating political tension and sectarian pressures. The trade unions in particular have been to the fore in this regard. Accordingly, the Committee is of the opinion that all these economic and social interest groups should be fully consulted and involved, on the basis of partnership and cooperation, in drawing up and putting into effect the concrete aspects of the Community Initiative. At the implementing stage, absolute impartiality should be maintained between the various population groups.

1.7. The Committee considers flexibility in the allocation of funds to be important with regard to: the various priority areas, the choice of the most suitable level of implementation for measures and the various scenarios for cross-Border measures. The laying down of over-detailed rules for specific measures should in particular be avoided; rules should, rather, be indicative.

1.8. Measures for urban and rural regeneration should be dealt with under separate action programmes, as they are quite distinct problems.

1.9. Particularly after having interviewed the project leaders concerned, the Committee considers it highly important that throughout the implementation stage, the Commission ensure that the principle of additionality (matching funds) is being strictly applied by both Governments and that the full amounts intended are thus actually being spent.

1.10. The Committee is impressed by the quality and vitality of various non-government organizations from the voluntary, statutory and private sectors who all wish to contribute to the implementation of the Community Initiative. The Committee hopes that the measures agreed under this Initiative will provide opportunities for these organizations to submit ideas, develop partnerships, and work within groups (possibly initiated and coordinated by local government authorities) to draw funds under a global grants procedure.

At its 326th Plenary Session (meeting of 31 May 1995) the Economic and Social Committee unanimously adopted the following additional Opinion, which had been adopted by the Section for Regional Development and Town and Country Planning on 19 May 1995.

2. Introduction

2.1. Against a long historical background and after the last 25 years of violent conflict, the peace process now underway in Northern Ireland holds out radical new prospects for reconciliation between the two communities, for repairing the social damage caused by the conflict and for improving the economic and social situation in Northern Ireland and the Border counties of the Republic (Donegal, Leitrim, Sligo, Cavan, Monaghan and Louth).

2.2. The Joint Framework Agreement announced by British Prime Minister, John Major, and An Taoiseach John Bruton on 22 February 1995, should be mentioned in this connection. This document could promote discussion of a lasting, democratic settlement for Northern Ireland, with guarantees for the right of self-determination and the protection of minorities; it could also serve as a basis for peaceful, democratic negotiations between all the parties involved, with guarantees of equal opportunity for all sectors of the population. Particularly important in guaranteeing the peace process are the formal ceasefires observed by the paramilitaries since the Autumn of 1994, and welcomed by the European Union.

2.3. The prospect of a lasting, peaceful and democratic solution in Northern Ireland offers a historic opportunity to secure the reconciliation of two communities which for decades have been divided by mutual opposition along mainly sectarian and traditional lines, and to help overcome intolerance, prejudice, and socio-economic inequality.

2.4. The sustained, bitter conflict has left significant social and economic scars, which are reflected inter alia in attitudes to the future, the physical appearance of

urban and rural areas, social development and the stunting of certain social institutions. Thus it is now important to heal these scars as soon as possible, to create new opportunities and prospects as a sign of hope, and to develop better outlets for the talents of the rising generation.

3. Economic and social indicators for Northern Ireland and the Border counties

3.1. With 1.6 million inhabitants, Northern Ireland's population density in 1991 was well below the European average. It has the highest birth rate of any EU region, 16.5 per thousand compared with an EU average of 11.9. With population growth outstripping growth in employment, Northern Ireland has generally suffered from net emigration (an annual average of 0.4% of the population emigrated in the late '80s). The majority of emigrants have been young people with skills.

3.2. In 1991, Northern Ireland's per capita income was 72% of the EU average, although over the 1989-1992 period, the area's rate of economic growth, at 0.9%, was higher than that for the United Kingdom as a whole (minus 1.1% over the same period).

3.3. The industrial sector accounts for 21% of gross added value (compared with 30% in most EU Member States). Productivity is lower than in other Member States, reflecting the structure of the region's manufacturing industry, with traditional industries such as textiles, leather, clothing and footwear accounting for about 25% of the total. Services account for 66.7% of GDP, more than the EU average of 62.5%. At 0.44% of GDP, R&TD intensity is below the figure for the United Kingdom as a whole (1.09%), and even that for the Republic of Ireland (0.55%).

3.4. Agriculture accounts for some 4% of GDP and 7% of civilian employment. Approximately 70% of agricultural land has relatively poor soil quality, leading to dependence on stock-rearing (approx. 90%), rather than cereals. Farms are smaller than the UK average, with a fairly high proportion providing a secondary source of income. Fishing and fish processing provide some 2,500 jobs. The prospects for agriculture in Northern Ireland and the Border counties will improve only if milk and meat production can be boosted. In order to assist rural areas, consideration should therefore be given to increased allocations for milk and stock-rearing quotas, aimed at achieving a tangible and realistic adjustment.

3.5. In 1991, civilian jobs in Northern Ireland totalled 634,000, a relatively low rate of activity. Services accounted for almost 70% of employment in the region, with industry and the supply sector accounting for about 29% (as against an EU average of 32%). The region is highly dependent on public-sector employment (33% of civilian jobs in 1992).

3.6. Northern Ireland's unemployment rate is one of the highest in the EU; in 1993, at 15.0%, it was almost 50% above the Community average (Eurostat data). Long-term unemployment is particularly high, with more than 50% out of work for more than one year, 30% for more than three years and 19% for more than five years. Youth unemployment is also very high.

3.7. It should be pointed out that these are only average figures. In some areas the social problems are even more acute. Some districts have a male unemployment rate of over 30%. In general, the unemployment rate for Northern Irish Catholics is somewhat higher than for Protestants. Unemployment is now affecting the third generation of some families.

3.8. While some Northern Irish school-leavers and graduates achieve the highest grades in the UK, there are shortcomings in the educational system; this is illustrated by the fact that 59% of registered jobseekers and 37% of employed workers have no formal qualifications. A particular problem is the large number of young people dropping out of school without any formal qualifications. Specific action is needed to pinpoint these young people, give them the help they require and offer them a second chance.

3.9. One of the most pressing priorities for these young people is to enhance their preparation for employment. The Committee heard proposals for enhancing education and training facilities in some of the most deprived areas. Developments which are targeted on the needs of young people in these areas and which introduce new opportunities for vocational education and training deserve strong support from the Community Initiative for economic and social reasons, as well as for their potential contribution to reconciliation and steps to reduce social exclusion.

3.10. The problems often begin early, at the pre-school or primary school stage. Large classes in primary schools make it more difficult to provide proper tuition for the less able. A new approach could be tried at the pre-school stage in order to set children on the right path. This should involve assistance for parents to enable them to provide their children with the right home environment for doing homework.

3.11. There is a mismatch between the skills required by firms and those actually possessed (if any) by the unemployed. There are special schemes to (re-)train unemployed people, under the Job Training Programme and the Youth Training Programme, which are now being replaced by a new Jobskills Programme. However, the Committee believes that the effectiveness of these programmes needs to be increased, the scale may need to be increased to offer places to more people, and the scope might be increased to offer a wider and more modern range of options.

3.12. Two factors place Northern Ireland at a disadvantage as a location for industry: 1) geography: apart from the land frontier with the Republic, Northern Ireland is peripheral in terms of the other Member States, and dependent on ferry links; 2) relative shortage of natural resources.

3.13. Northern Ireland's road network is generally adequate in terms of road surface quality, despite the low level of gross investment in road building, which at 0.2% of GDP is far below the Community average of 0.74%. But there are specific shortcomings which are the legacy of the Troubles. Some of the roads in the Border area and cross-Border roads are in an extremely bad state, as for the last 25 years they have been completely blocked to cross-Border traffic for security reasons.

3.14. But it is these very roads which have such a key role to play as communications arteries in reviving the areas hardest hit by the conflict, and they therefore need to be improved in the medium term. The main Belfast-Dublin road also urgently needs to be upgraded to dual carriageway standard so as to encourage, rather than deter, the steadily growing North-South traffic. East-West links also need to be improved to enable industry to expand along this development axis.

3.15. Northern Ireland is dependent on oil (70%) and coal for its energy needs, as it is not yet connected to natural gas pipelines and its energy market is cut off from the British and Continental European grids. Even when the gas pipeline to Great Britain has been built, financial rules will preclude any cut in electricity prices for some years. As a result, Northern Irish energy prices are among the highest in the EU and this substantially hampers competitiveness.

Border counties of the Republic

3.16. No separate data are available for the Border counties, as the Republic (total 1991 population 3.5 million) publishes only national economic statistics. In considering the figures quoted below, it should be

borne in mind that one-third of the Republic's population and a major part of its economic activity are concentrated on the capital, Dublin. The Border counties tend to be thinly populated.

3.17. In 1991, per capita income in the Republic was 70% of the EU average. With population growth outstripping growth in domestic employment, the Republic too suffered from net emigration, 0.9% of the population per year in the late 1980s. At 18% (late 1993 figures) the Republic has one of the highest rates of unemployment in the EU, with particularly high figures for long-term unemployment (44%) and youth unemployment (approx. 25%).

3.18. Foreign firms account for a high proportion of the Republic's manufacturing industry, providing 45% of jobs in the sector and contributing 68% of net industrial output. Agriculture accounts for 9% of GDP and 13% of employment. The Republic suffers from a historically low level of investment; per employed worker this is more than 20% below the EU average.

4. Main points of the Community Initiative for Northern Ireland and the Border counties

4.1. Against this economic and political background, and wishing to bolster the peace process, within the framework of the EU, the Commission has proposed a special support programme to promote peace and reconciliation based on the recommendations of the ad hoc Task Force. This was welcomed by the Essen European Council in December 1994.

4.2. Under EU regional policy, it was decided to go for a new Community Initiative rather than to step up normal Structural Fund aid for Northern Ireland and the Republic. This will raise the political profile of the Community's aid and it is also intended to give a clear, positive signal to the people of Northern Ireland and the Border counties, and to engender new hope and confidence and the courage to reject intolerance.

4.3. The special programme is to run from 1995 to 1999, with initial funding of ECU 300 million for the first three years; further funds are to be made available for the final two years, following an appraisal and interim report by the Commission.

4.4. The indicative allocation of resources earmarks 80% for activities in Northern Ireland and not less than 20% for the Border counties, with at least 15% of the

total devoted to cross-Border projects. Measures under the Initiative are to be financed jointly by the Community and the Member States concerned, with the Community covering up to 75% of the cost.

4.5. The special programme is to provide support and economic assistance in five key areas:

(i) Employment

- Promotion of growth sectors such as tourism,
- Redirection of redundant skills (e.g. security and construction sectors),
- Getting long-term and young unemployed people back to work and boosting the female participation rate;

(ii) Urban and rural regeneration

- Upgrading the social and physical environment in the hardest-hit urban and rural areas;

(iii) Cross-Border development

- Exploiting the opportunities for cross-Border social and economic activities arising from the new situation;

(iv) Social inclusion

- Measures to help particularly disadvantaged social groups, such as victims of violence and ex-prisoners;
- Measures to encourage the integration of children and young people, including pre-school education;
- Cross-community activities;

(v) Productive investment and industrial development

- Upgrading existing facilities to promote competitiveness, particularly with a view to the development of SMEs,
- Stimulating innovative research and technological development,
- Promoting productive investment through soft loans.

4.6. A flexible approach to funding will benefit the social inclusion measures (point (iv)) in particular; one of the proposed forms is global grants — which have already proved their worth in other Community programmes — to relevant local players (youth services, non-governmental organizations (NGOs), women's groups, local authorities). Suitable candidates should be selected from the 2,500 or so NGOs — particularly those working in local communities and on a cross-community basis. The Commission should not hold back from

supporting proposals which are imaginative and experimental, provided they are clearly geared to the objective of 'peace and reconciliation'.

5. General comments

5.1. In the Committee's view, the Community Initiative should help to bring about a visible, rapid improvement in the economic situation of the people of Northern Ireland and the Border counties. Strict impartiality in implementing the special programme is absolutely essential in order to avoid potential conflicts between the communities. Equal treatment for all citizens in terms of economic and social opportunities must be guaranteed.

5.2. The special programme must be integrated with other measures and programmes designed to assist Northern Ireland. In particular, the Initiative should be vetted for compatibility and complementarity with existing EU aid programmes (in regional policy, primarily the Single Programming Document, Northern Ireland and the Community Support Framework, Ireland, plus other Community initiatives). It should also be effectively coordinated with the activities of other organizations such as the International Fund for Ireland.

5.3. The Committee welcomes the Commission's decision to opt for a Community Initiative. It hopes that this will give the right signals to the population and that they will construe it as an expression of new hope and of the solidarity and constructive assistance of the EU Member States.

5.4. The Committee regards the five priority areas for action under the special programme as generally appropriate for tackling the specific problems of Northern Ireland and the Border regions in the context of the peace and reconciliation process. The Committee is however aware that there is a need to set priorities for practical implementation.

5.5. One of the benefits to be maximized from the Initiative is the involvement of local people and organizations in the preparation and implementation of programmes which will benefit particular localities. Whilst major parts of two of the priority areas, those dealing with aspects of employment and investment, by their nature, need a strategic regional overview, the others can be seen as being more amenable to delegated responsibilities at a local level. The Committee, there-

fore, recommends that measures for urban and rural regeneration, cross-Border development and social inclusion should be delegated as far as possible by the national governments to local authorities or other coordinating agencies who, through appropriate partnerships, prepare schemes for local action which are approved by the agency(ies) administering the global grants procedure.

5.6. The Committee has considered how the needs of innovative measures, partnership actions, delegated authority, and accountability can be reconciled. The Commission is invited to suggest to the national authorities that a system using a small number of global grants should be developed and that applications for access to the global grants should be on the basis of measures developed at a local level and approved by the authority holding the global grant(s) using criteria linked to the overall guidelines.

5.7. The Committee was impressed by the quality and variety of potential contributions which the special fund might make. It was also impressed by the vitality of the different agencies (from the voluntary, statutory and private sectors), who can each make their own contribution. The critical factor is to ensure that the measures agreed are designed to secure maximum benefit for people who live in disadvantaged circumstances in Northern Ireland and the Border counties. There are over 2,500 NGOs, many of which wish to play a part. They include youth services, women's groups, community associations, charitable groups, enterprise agencies and agencies offering social services. The Committee hopes that the Commission will seek to ensure that the funding arrangements reflect this diversity, apply fairly to the different communities, and avoid excessive fragmentation. The administration of the global grants and the coordinating/partnership role of local authorities should take their interests into account.

5.8. The Committee considers that the ECU 300 million package for the first three years is a good start, but consideration should be given to topping it up if good economic and social progress is made. The Committee welcomes the indicative allocation of funds between Northern Ireland and the Border counties and the earmarking of at least 15% of the funds for cross-Border projects.

5.9. Flexibility in fund allocation is absolutely essential for effective implementation of the special programme. The Committee therefore regards it as essential to retain some room for manoeuvre in regard to the

proposed 80:20 allocation of funds between Northern Ireland and the Border regions, in terms of the actual allocation of funds to eligible projects. In particular, there should be no obstacles to exceeding the minimum of 15 % for cross-Border measures.

5.10. Excessively strict management of these allocations should be avoided, in order to allow the Community contribution to total 75 %, not per individual measure but across the board for all measures. Flexible management would not entail relaxing standard financial control procedures governing the use of Community funds.

5.11. The Committee endorses the proposals to promote productive investment in the industrial, commercial and service sectors. It considers soft loans to be a particularly effective tool. In particular it welcomes the emphasis on the development of SMEs, which are important for employment. It notes with approval, however, that investment schemes by other firms which can help to create jobs also qualify for assistance. The important thing now is to reduce the time-lag between investment decisions and actual implementation.

5.12. On the basis of its on-the-spot findings, the Committee feels that, particularly in this priority area, limiting cross-Border measures to the six Border Counties of the Republic is too restrictive, as experience shows that investment by firms does not stop at arbitrary, administratively defined borders. A more flexible interpretation of 'cross-Border' should be permitted.

5.13. The Committee stresses the importance of stepping up the promotion of research and development in order to guarantee jobs in the long term; in this connection, exchanges of young academics between higher education establishments in Northern Ireland, the Republic and Great Britain should be further encouraged. The current programme of school exchanges between Northern Ireland and the Republic should be expanded. Support should also be available to promote cultural and sporting exchanges between sports clubs and cultural organizations in both Northern Ireland and the Republic, so as to further develop mutual trust.

Specific Comments

5.14. The Committee sets great store by the fact that when the Initiative is up and running, the Commission is to verify that programme funding is genuinely additional

and that the two Governments actually provide the promised matching funds.

5.15. In order to cover the aforementioned areas effectively, the Committee considers that the Commission must constantly monitor implementation, so as to ensure that the EU money is spent effectively and is allocated fairly between the various regions and communities. In view of the still relatively unstable situation in Northern Ireland, three years is too long for an evaluation report. Interim reports should be drawn up after one and two years.

5.16. The Committee accepts that this Community Initiative is designed to be effective at local level in areas of great need. This has led to an emphasis on delegation and the role of global grants. However, this does not mean that the Commission will relax its normal wish to ensure that the national authorities are fully accountable for the administration and effectiveness of local actions. The monitoring arrangements may be more complex, but the standards of scrutiny must not be inadequate.

5.17. The Committee believes that among the many possible beneficiaries, funding should be concentrated on umbrella organizations and those NGOs involved in cross-Border work; this is the most effective way of promoting reconciliation between the communities, and of building bridges between neighbours in the context of European integration.

5.18. Nevertheless, the Committee considers it important that global grants for socioeconomic measures aimed at exploiting the prospects opened up by the peace process should not be confined to NGOs and other bodies working in the social field; socio-economic interest groups (chambers of industry, commerce and craft industries, trade unions, employers' associations and the welfare associations, consumer organizations, sports clubs, etc. which are important in this context) should also be eligible.

5.19. The Committee welcomes the fact that, where necessary, technical assistance is to be given to beneficiary organizations, authorities and socio-economic groups, in order to ensure that the Community's money is used in line with the aims of the special programme.

5.20. The Committee recommends that the Operational Programmes to be submitted by the Member States should be required to provide, inter alia, an indicative allocation of total funds between the five priorities and, bearing in mind that priorities vary in each local area, an indicative allocation of funds to be available at national level and for appropriate local areas. The publication of such allocations would help to meet the pressing call for openness and visibility seen as vital for the success of the Initiative.

6. Prospects

6.1. The Economic and Social Committee broadly endorses the Commission's proposed special support programme for peace and reconciliation in Northern Ireland and the Border Counties of the Republic. Its objective of promoting peace, prosperity and economic security is extremely important for securing lasting peace on the basis of democracy, the benefits of which will go beyond the two Member States concerned to foster the coexistence of peoples throughout the European Union.

6.2. Per head of population, Northern Ireland receives significantly less Structural Fund money than the Repub-

lic. Against this background the Committee urges the Commission to assess whether the Structural Fund allocation for Northern Ireland could be increased.

6.3. The Committee would also ask the Commission to spell out to what extent it intends to leave implementation of special programme measures to local authorities and NGOs (voluntary and Community sector) on-the-spot, (see point 5.16), using global loans.

6.4. The Committee urges the Commission to involve grass-roots economic and social interest groups as far as possible in selecting projects under the special programme. The Committee wishes to be briefed specifically about the actual allocation of funds for projects, measures and beneficiaries of global loans before their implementation, as well as in the annual interim reports (see point 5.13).

6.5. The Committee believes that the Community Initiative can contribute to the economic and social basis for the peace process, for reconciliation and for cross-community tolerance, and that it will also benefit the European Union as a whole.

Done at Brussels, 31 May 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 with regard to the transport of dangerous goods by rail⁽¹⁾

(95/C 236/09)

On 4 April 1995 the Council decided to consult the Economic and Social Committee, under Article 75 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Transport and Communications, which was responsible for the Committee's work on the subject, adopted its Opinion on 10 May 1995. The Rapporteur was Mr Giesecke.

At its 326th Plenary Session (meeting of 31 May), the Economic and Social Committee adopted the following Opinion by a large majority with two abstentions.

1. Background

1.1. The coalescence of the markets in Europe is bringing with it a rapid growth in intra-European traffic. Additional growth is generated by the opening of frontiers with the central and eastern European countries.

1.2. People in Europe have become environmentally-minded, and a number of serious accidents have considerably raised their awareness of the risks. This makes consistent policy measures essential.

1.3. The Transport Ministers of the European Communities have taken important decisions of principle on transport safety in recent years⁽²⁾. Safety standards in the Member States are to be set at a high level — that of the standards applying to cross-frontier traffic. These uniform standards then also obviate trade distortions.

1.4. Such safety standards were adopted first for the transport of dangerous goods by sea and by road, since spectacular accidents had occurred with these modes of transport.

1.5. There is also a potential risk attached to the transport of dangerous goods by rail, for which as a rule consignments are larger than in road transport and are carried through urban areas. Rail marshalling yards are often located in urban centres; accidents can occur during shunting operations. In addition, particularly dangerous goods are increasingly being switched from road to rail.

1.6. Moreover, the railways in some Member States are at present undergoing restructuring, involving a separation of track and operating responsibilities.

1.6.1. In addition, new rights of access to railway infrastructure are being created. Thus in future new

railway companies may be set up and offer their services, which could include the carriage of dangerous goods.

1.6.2. Because of this gradual restructuring and opening-up of the rail transport market, there must be a framework of safety provisions to cover the transport of dangerous goods by rail in this new context⁽³⁾.

1.6.3. Hence it should be taken into account that the operators of wagons and the track operators have different responsibilities.

1.7. As long as transport of dangerous goods by rail was carried out only by the state railways of the Member States, monitoring by other authorities was unnecessary. Because of the aforementioned restructuring, this is no longer the case.

1.8. Cross-frontier transport of dangerous goods by rail is covered at present by the Regulations concerning the international carriage of dangerous goods by rail (RID), annexed to the Convention concerning international carriage by rail (COTIF) as Annex 1 to Appendix B. The RID annexes are updated every two years in accordance with the UN recommendations on the transport of dangerous goods by rail. They include all relevant safety provisions and should be regularly appended to this Directive in full, thereby becoming also nationally applicable. All the Member States of the European Community are already parties to this Convention for cross-frontier transport.

1.9. The Commission feels that at the national level regulations have developed in a diverse manner. There

⁽¹⁾ OJ No C 389, 31. 12. 1994, p. 15.

⁽²⁾ Directive on the transport of dangerous goods by road; Directive on the monitoring of transport of dangerous goods; Draft Directive on the engagement and training of those in charge of dangerous goods.

⁽³⁾ In Germany there are already 130 privately owned railway undertakings operating rail goods services, as well as many undertakings for which the provision of rail services is only an ancillary activity. Under German law they all have an equal right of access to the railway network of Deutsche Bahn A.G., provided that they open their networks on a reciprocal basis. Other undertakings will seek access to the market.

are no Community legal provisions on the carriage of dangerous goods by rail; and there are considerable variations from one Member State to another in the safety standards they require for intra-State traffic. A consistently high Community-wide protection and safety standard is therefore not guaranteed at present.

1.10. Apart from the differing safety provisions, in the Commission's view the free movement of these goods in the Community is hindered by multifarious legal provisions on intra-State transport of dangerous goods. In the Commission's view, these are incompatible with the requirements of the internal market.

1.11. In the safety field, the Commission believes that the risk of serious distortions of competition is further increased by the existence of bilateral and multilateral agreements between the Member States or between those states and non-member states. On the basis of these agreements, which contain provisions diverging from the RID's safety rules, two Member States of the Community could for example agree bilaterally to allow the carriage of certain dangerous goods between their territories although the carriage of these goods is forbidden in the rest of the Community.

1.12. This makes all the more urgent the need for uniform safety rules, valid throughout the Community, on the transport of dangerous goods by rail.

2. The Commission proposal

2.1. Uniform safety rules for the transport of dangerous goods by rail would best be guaranteed by making the provisions of the RID applicable to the transport of dangerous goods not only between, but also within the Member States.

2.1.1. Use of the RID as a basis for harmonization has the clear advantage that there would be no need to draw up any new provisions or standards at Community level. Thus the Member States would only have slight additional legislative and administrative costs to bear.

2.2. The Directive provides that from 1 January 1997 the RID should apply not only, as before, to cross-frontier transport, but also to transport within the individual Member States.

2.3. As already applies to the harmonization Directives on the transport of dangerous goods by road, the Member States would have the right to apply stricter rules or standards consistent with the United Nations Recommendations on the Transport of Dangerous Goods, to the extent that the RID has not yet incorporated these rules.

2.4. Other provisions lay down rules on temporary exemptions, in the interests of the individual railway undertakings.

3. Comments by the ESC

3.1. The Committee has welcomed both the decisions of principle on safety in the transport of dangerous goods, and the practical decisions taken so far.

3.1.1. In its Opinions, it has tended to advocate stricter measures on individual aspects.

3.2. In this case, too, the Committee welcomes the proposal to adapt national provisions to the international provisions in force for cross-frontier traffic, which under the RID rules already apply to 34 states which are parties to the Convention.

3.3. The Committee welcomes the fact that the Draft Directive under review is largely in keeping with the Directive on the transport of dangerous goods by road. Intermodal transport will thus be facilitated.

3.4. On Article 1(1) of the Draft Directive, the Committee recommends that it be left to the Member States to decide whether the transport of dangerous goods belonging to national armed forces, or for which the latter are responsible, is subject to this Directive or not.

3.4.1. At all events it should be ensured that such transport does not lag behind the safety standards applying to civilian goods.

3.5. The Committee points out that the restructuring referred to by the Commission (Directive 91/440/EEC) also gives rise to differing responsibilities for the enterprises responsible for operation and those responsible for the track. These different responsibilities should be addressed and defined in the Directive.

3.6. Article 6(9) mentions 'small quantities'. To avoid problems of interpretation, the Committee suggests a reference to the definition given in the RID and the quantities that document specifies for the various classes against margin numbers X OIa.

3.7. In view of the restructuring mentioned in point 1.7 above, the Committee expects in the near future to see a Draft Directive on the monitoring of the transport of dangerous goods by rail, to correspond to the Draft Directive on the monitoring of the transport of dangerous goods by road⁽¹⁾.

3.8. The Committee urges the Commission to produce as soon as possible a Draft Directive on transport

⁽¹⁾ COM(93) 665 final — SYN 487/OJ No C 238, 26. 8. 1994, p. 4.

of dangerous goods by inland waterway. Such a Directive would greatly facilitate the transport of dangerous goods using more than one mode (intermodal transport).

3.9. The Committee would also point out that the Commission's references in its Explanatory Memor-

andum to the 'diversity of the various national laws applicable to the transport of dangerous goods at national level' and to the development of national rules 'in a diverse manner' have not yet been substantiated, and would welcome the inclusion of a summary of national provisions in comparison with the RID.

Done at Brussels, 31 May 1995.

*The President
of the Economic and Social Committee*

Carlos FERRER

Opinion on the proposal for a European Parliament and Council Directive on the Application of Open Network Provision (ONP) to Voice Telephony⁽¹⁾

(95/C 236/10)

On 18 April 1995 the Council decided to consult the Economic and Social Committee, under Article 100 A of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Transport and Communications, which was responsible for the Committee's work on the subject, adopted its Opinion on 10 May 1995. The Rapporteur was Mr Green.

At its 326th Plenary Session (meeting of 31 May 1995), the Economic and Social Committee adopted the following Opinion unanimously.

1. The proposal from the Commission

1.1. This proposal is basically a resubmission of a proposal put forward in 1992 (COM(92) 247 final) which was turned down by the European Parliament in July 1994, primarily on comitology grounds. The ESC unanimously adopted its statement on that proposal on 25 November 1992 (CES 1342/92).

1.2. In the meantime, the EP has called for the resubmission of the proposal, and the EP, the Commission, and the Council have agreed a *modus vivendi* on comitology. The Commission therefore now hopes that the resubmitted proposal may be adopted without delay.

The said *modus vivendi* is intended to deal with an issue which has been left open in the Treaty of the European Union. The new co-decision procedure has not been reflected in Article 145 dealing with the delegation of implementation issues to the Commission. The Treaty

therefore in principle lacks a procedure for the delegation in the context of co-decision.

1.3. The Council has agreed a timetable for the liberalization of all telecommunication networks, infrastructures and services, with 1 January 1998 as the primary target date. This development will change the current basis of exclusive or special rights as the criterion for application of ONP to telecommunication organizations (the 'scope' of ONP).

The proposed Directive itself is independent of any particular degree of liberalization and leaves to the individual Member State to notify to the Commission those telecommunications organizations to which the Directive shall apply. This is in line with the subsidiarity principle; however, depending on the precision of the definition of the scope of ONP, this may lead to some variation in the application of ONP in each Member State.

The precise implementation of the liberalization still needs to be resolved with appropriate legislation. It must be expected that all exclusive or special rights will

⁽¹⁾ OJ No C 122, 18. 5.1995, p. 4.

be withdrawn. According to the Green Paper on the liberalization of Infrastructure (part II), issued by the Commission, it must be expected that any regulatory limitations on the number of actors in telecommunications may be based only on any limitations in 'natural resources', such as radio frequencies, numbering, or town planning limitations. It is important to note, however, that the legislation is still in the pipeline, and that this regulation thus is in a transitional phase.

1.4. The resubmitted proposal has been changed on a number of points without changing the main substance of the Directive. The changes are mainly directed towards improved consumer protection emphasizing the monitoring role of the National Regulatory Authorities.

2. General comments

2.1. Despite the development towards competition, there is still a need for a Directive on ONP for voice telephony, and the ESC refers to its first statements on the expected benefits in consumer protection, universal service and a harmonized single market for telecommunications services related to voice telephony.

2.2. With the abolition of special and exclusive rights for voice telephony and the related networks, it becomes even more important that a minimum set of pan-European service aspects are defined and are supported by important service providers. Therefore the ESC recalls its former Opinion as follows: 'The definition, implementation and interpretation of the ONP measures should be related to the costs involved. ONP measures must take account of the real nature of demand, bearing in mind economic and social viability, technical feasibility and initial and operating costs. Any moving towards basing tariffs on costs should be gradual and should be linked to measures to ensure that low-traffic users, and consumers in general, enjoy tariff reductions — as business subscribers do — and measures to encourage the connecting to the network of households which could not otherwise be connected.'

The proposed Directive defines such a minimum set of pan-European service aspects, and leaves it to each Member State to identify those telecommunications organizations responsible for supporting it (depending on the state of service supply and competition in that Member State). While market mechanisms in time should replace regulatory mechanisms, it must be

expected that the telecommunications market for some time will call for some degree of regulation, in particular concerning bottlenecks, and depending on the market situation in each country.

2.3. The introduction of competition also increases the importance of setting basic principles for fair competition, not least in the realm of network interconnection. The Commission has indicated that a proposal for a Directive on Interconnection will be forthcoming in the context of ONP. The ESC accepts the articles in the current proposal on special network access and interconnection as initial measures and looks forward to a future, more comprehensive set of proposals in a separate proposed Directive. In the meantime, Member States should ensure adequate and fair interconnection for all competitive providers.

2.4. The ESC welcomes the modification of Article 10(1) to reflect the rights for users to be heard before a particular decision by the NRA. This modification was suggested in item 3.2 of the prior ESC statement.

2.5. The ESC supports the wish that the proposed Directive shall be adopted without delay.

3. Specific comments

3.1. The ESC emphasizes the need to provide the advanced facilities listed in Annex III(1), as referred to in Article 9, but also expects the services and facilities detailed in Annex III(2) to be introduced on a Community-wide scale as soon as possible, subject to technical feasibility and economic viability. This would seem necessary if the universal service is to be achieved. For this reason, the procedure for Community-wide convergence referred to in Article 25 is particularly important.

3.2. The ESC wishes to emphasize the importance of the application of the principles of cost orientation and cost allocation, Articles 12 and 13, and that these principles shall make proper allowance for a capability to invest in the introduction of new technologies.

3.3. The ESC notes that preamble No 44 emphasizes the importance of the technical adjustment of the Directive, and the importance of the views of the Member States. The ESC also notes the importance of the proposals of the Member States. Due to the potentially wide ranging consequences of the adjustments, the ESC should be consulted on such proposals.

3.4. The ESC believes that the Commission should report to the EP, the Council and the ESC no later than

2 years after the deadline for implementation (ref. Articles 31 and 32).

Done at Brussels, 31 May 1995.

*The President
of the Economic and Social Committee*

Carlos FERRER

Opinion on the proposal for a Council Directive on the use of vehicles hired without drivers for the carriage of goods by road⁽¹⁾

(95/C 236/11)

On 6 May 1995 the Council decided to consult the Economic and Social Committee, under Article 75 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 10 May 1995. The Rapporteur was Mr De Norre.

At its 326th Plenary Session on 31 May and 1 June 1995 (meeting of 31 May 1995) the Economic and Social Committee unanimously adopted the following Opinion.

1. Introduction

1.1. Directives 84/647/EEC and 90/398/EEC, published in OJs L 335 of 22 December 1984 and L 202 of 31 July 1990 respectively, require the Member States, as a minimum measure, to allow the use within their territories, for the carriage of goods between Member States, of vehicles hired without drivers, provided that the vehicles concerned are:

- registered and in a roadworthy condition in a Member State;
- driven by personnel of the lessee undertaking;
- at the sole disposal of said undertaking during the hire contract;

the above to be proved by documents which must be carried on board the vehicles.

1.2. The current Directives also allow Member States to impose two types of restriction:

- the vehicles may only be hired in the Member State in which the lessee is established;

- Member States may exclude from the scope of the Directive own-account transport operations carried out by vehicles with a total permissible laden weight of more than 6 tonnes.

In national law, Member States may also lay down conditions less restrictive than those in the Directives.

1.3. The proposal requires Member States to accept the following on their territories:

- own-account use of hired vehicles, with no weight limit;
- the use of vehicles for transport between Member States, hired in a Member State other than the one in which the lessee undertaking is established; the Member State concerned may, however, restrict the maximum duration of the hire contract to 2 months (but not less).

1.4. The proposal does not cover the use of hired vehicles for cabotage operations (national transport carried out by non-residents), due to persistent discrepancies between Member States in the field of taxation and roadworthiness tests.

⁽¹⁾ OJ No C 80, 1. 4. 1995, p. 9.

2. General comments

2.1. The proposal should be assessed in the context of overall transport policy, its impact and implications, especially on the social level, and in the light of the conclusions of the Group of Experts on the carriage of goods by road.

2.2. The Commission justifies the new proposal by the need to pursue the process of harmonizing and liberalizing conditions for the use of vehicles hired without drivers throughout the European Union.

2.3. From this standpoint, the Committee supports the objective pursued by the Commission, particularly in the third and fourth recitals, which highlight the macro- and microeconomic benefits of hired vehicle use.

2.4. In a single market, a road haulier or any other undertaking wishing to use hired vehicles for varying periods of time, without having to buy or lease the vehicle in question, must be able freely to make use of any opportunity offered by the hire market.

2.5. As emphasized in its Opinion of 28 March 1990 on the previous proposal on the same subject, the Committee points out that these opportunities concern all hired capital goods where the lessees require the lessor not only to provide the equipment, but also to maintain it.

2.6. Vehicle hire involves supplying means of transport to meet demand. It is therefore a different activity from transport itself. Users are calling for liberalization in all the EU Member States.

2.7. The Committee believes that the proposal makes only a partial contribution to the aim of harmonizing and liberalizing the market in vehicles hired for the carriage of goods by road.

Deleting Article 3(1) of the existing Directives would confine the new directive's scope to the use of vehicles hired for the carriage of goods between Member States.

2.8. The Committee is unsure how the Member States could enforce compliance with Article 2(5)(b), which stipulates that proof must be provided that the vehicle hired is driven by the lessee or by a driver employed by the lessee. Such proof is necessary since the vehicle may be hired in any Member State, regardless of differences in wage costs. As already expressed in a previous Opinion, the Committee 'stresses the importance of this provision and, in particular, the need to ensure that hiring vehicles without a driver does not lead to an increase in casual and undeclared employment'.

2.9. Further, the Committee recommends harmonization of monitoring arrangements in this area, as otherwise unfair forms of competition will flourish.

2.10. Lastly, the Committee appreciates the fact that this proposal involves a recasting of existing legislation, which should ensure greater clarity of texts.

3. Specific comments

3.1. The Committee welcomes the deletion of Article 3(2) of the existing Directives: this would put a stop to Member States restricting own-account use to hired vehicles with a low permissible laden weight.

3.2. Subject to the comments contained in 2.8 above, the Committee also welcomes the new Articles 3 and 5, under which Member States would no longer be able to prevent an undertaking established in any EU Member State from hiring vehicles in any other Member State, for the purposes of traffic between Member States.

3.3. Lastly, the Committee notes that the new directive does not affect the provisions restricting the temporary import of hired vehicles (generally to 6 months).

Done at Brussels, 31 May 1995.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the proposal for a Council Regulation on the Safety Management of Ro-Ro Passenger Vessels

(95/C 236/12)

On 13 March 1995 the Council decided to consult the Economic and Social Committee, under Article 84-2 of the Treaty establishing the Community, on the abovementioned proposal.

The Section for Transport and Communications, which was responsible for drawing up the Committee's work on the subject, adopted its Opinion on 10 May 1995. The Rapporteur was Mr Whitworth.

At its 326th Plenary Session (meeting of 31 May 1995), the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction

1.1. This draft Regulation is the first item in a programme of proposals for Council decisions designed to enhance the safe operation of roll-on/roll-off passenger ferries which was set out in the Resolution of the Council on this subject dated 22 December 1994.

1.2. The Resolution also called on the Member States and the Commission to support a number of continuing initiatives in the International Maritime Organization (IMO) and on the Commission to develop a number of other relevant initiatives contained in its action programme.

1.3. These continuing activities all form part of the development of the Common Policy on Safe Seas to which the Economic and Social Committee gave an overwhelming endorsement in its Opinion on the Commission Communication on the subject (CES 1170/93 dated 24 November 1993). The relevant elements of this Policy were given added urgency by the sinking of the Estonian Ro-Ro ferry Estonia on 28 September 1994.

2. The Commission Proposal

2.1. The Draft Regulation seeks to make compliance with the IMO's International Management Code for the Safe Operation of Ships and for Pollution Prevention (the ISM Code) mandatory for all companies operating seagoing Ro-Ro passenger ferries on a regular service to or from ports in the Community with effect from 1 July 1996.

2.2. This Code was adopted by the IMO in May 1994 as part of the Safety of Life at Sea Convention, with implementation dates ranging from July 1998 to July 2002, depending on the type of ship. Thus the Commission is seeking to bring forward the implementation date for Community Ro-Ro ferries by two years and to apply it on domestic as well as foreign-going services.

3. The ISM Code

3.1. Essentially the Code requires shipping companies to develop and apply high-quality standards for the management and operation of their ships. This involves the development of detailed written policies, as well as operating and emergency procedures and the precise definition of areas of responsibility both ashore and afloat. There is a requirement for verification on a continuing basis once the initial standards have been set and the necessary procedures put in place.

3.2. Governments are obliged to satisfy themselves that the requirements of the Code are met by those shipping companies which conduct their business in their territories. Compliance will be evidenced by a Document of Compliance (DOC) issued by their Administration to a shipping company once it is satisfied that the company's procedures comply and by a Safety Management Certificate (SMC) for each individual ship verifying that those procedures are in force in the ship concerned.

3.3. The Code will be accompanied by detailed IMO Guidelines for Administrations on its implementation.

4. General comments

4.1. The Committee unreservedly supports the proposal to make the ISM Code mandatory for passenger ferries at the earliest practicable date. It emphasizes that this is just one step in the overall programme set out in the Council Resolution of December 1994 which includes both technical and social aspects. It urges the Commission to develop as soon as possible its proposals to give effect to the other elements in the programme and Member States to give their full support to the various initiatives to enhance ferry safety which are being developed in the IMO.

4.2. The fact that the Commission's proposal for this EC Regulation adopts an IMO instrument at its base is entirely consistent with the policy endorsed by the ESC

in a whole series of its Opinions on Community legislation in the maritime field. The Committee once again endorses this approach.

4.3. It is recognized a vast amount of work will need to be done if ferry companies and Member States' Administrations are to be in a position to comply with the draft Regulation by 1 July 1996. Unless companies already have detailed written procedures in place and Administrations have qualified staff to verify compliance with the requirements of the Code at both shore management and shipboard level, the fourteen months which now remain will be barely adequate, particularly as the IMO Guidelines require that at company's Safety Management System shall have been in operation for three months before a DOC can be issued.

4.4. Some Member States are already querying the July 1996 date. Nevertheless, the Committee believes that any derogations from this time-scale should be kept to an absolute minimum and limited to small companies operating domestic services in sheltered waters for a period of short duration.

4.5. The Committee believes that Member States' Administrations should scrutinize rigorously Documents of Compliance and Safety Management Certificates issued to non-EU flag ships by their flag Administrations or Classification Societies and only accept these if they are satisfied that the issuing Authority requires standards of compliance similar to their own.

4.6. In this context the Committee attaches particular importance to compliance with Part 6 of the Code concerning Resources and Personnel and especially with its provisions concerning the qualifications of the master and crew. Member States' Administrations must ensure that the crews of all ships subject to the Regulation meet the requirements of Council Directive 94/58 on Minimum Levels of Training and ability to communicate. Special attention should be paid to ships of whatever flag crewed by non-EU seafarers, and their ability to communicate with passengers in an emergency situation.

4.7. A further important point concerns the relationship between the 'Designated Person' specified in Part 4 of the Code and the Masters of the Company's ships whose responsibility and authority is spelt out in Part 5. The former should be a suitably qualified individual and capable of commanding the confidence of the sea-going personnel.

5. Specific comments

5.1. Title

5.1.1. The title of the proposed Regulation is misleading in that it indicates a much more comprehensive approach embracing the full range of activities contained in the Council Resolution. A better title might be 'On the Mandatory Application of the ISM Code to Ro-Ro Passenger Vessels'.

5.2. Article 2

5.2.1. The definition of 'RO-RO ferry' should be amended so as to make it clear that it covers vessels carrying road or rail vehicles.

5.2.2. The term 'regular service' used in Article 3 needs to be defined.

5.3. Article 5

5.3.1. The Committee attaches particular importance to the provision in Article 5.2 that where DOCs or SMCs are issued by a Classification Society, Member States may only rely upon those which meet the criteria laid down in Council Directive 94/57.

5.3.2. Article 5.4 should be amended to reflect the relevant provisions of the IMO Guidelines (which were adopted after the proposed Regulation was drawn up) concerning the periods of validity and verification for the DOCs and SMCs. It will then be necessary to bring the ninth recital into line. The Guidelines should be reproduced as Annex 2 to the Regulation.

5.4. Article 6

5.4.1. Article 6.3 permits Member States to recognize DOCs and SMCs issued by third countries — i.e. the Flag States of non-EU flag ferries operating regular services to and from Community ports. The Committee is anxious that this should not permit the recognition of substandard operators. The Article should be permissive and not mandatory. Further emphasis should be given to the proviso 'if it is satisfied that they guarantee the observance of the provisions of the Regulation' and recognition should be conditional upon it. Further

the Article should contain a particular reference to compliance with Part 6 of the Code — see paragraph 4.6 above.

5.5. Article 7

5.5.1. The provision that a Member State may require the suspension of the operation of a company's entire service expands the power under the Port State Control provisions to detain a particular ship. Clearly it would only be exercised if a situation of major danger had arisen since the DOC and SMCs were issued or recognized. The Article should provide that the suspension should be revoked once the danger was removed and that the detailed procedure should only be applicable if the suspension was disputed.

5.5.2. Further, the power given to the Commission in Article 7(c) to countermand a decision of a Member State in this respect could force a Member State to permit a company to operate when it considered aspects of its operation to be dangerous and runs counter to the principle of subsidiarity. It would be better if the view of the Commission resulting from the comitology

procedure were relayed to the Member State in the form of a request.

5.6. Article 8

5.6.1. It should be made clear that it is the IMO Guidelines which are referred to.

6. Summary and Conclusions

6.1. The Committee unreservedly supports the proposal to make the ISM Code mandatory for passenger ferries with effect from 1 July 1996. It believes that any derogation from this requirement should be kept to an absolute minimum and limited to small companies operating domestic services in sheltered waters for a period of short duration.

6.2. Particular importance is attached to compliance with Part 6 of the Code concerning Resources and Personnel.

6.3. Before accepting Documents of Compliance and Safety Management Certificates issued by non-EU Administrations or Classification Societies, Member States' Administrations should be entirely satisfied that the issuing authority requires standards of compliance similar to their own.

Done at Brussels, 31 May 1995.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the draft Council Regulation amending Regulation (EC) No 2062/94 establishing a European Agency for Safety and Health at Work

(95/C 236/13)

On 20 February 1995, the Council decided to consult the Economic and Social Committee under Article 198 of the Treaty establishing the European Community on the draft Council Regulation amending Regulation (EC) No 2062/94 establishing a European Agency for Safety and Health at Work.

The Section for Social, Family, Educational and Cultural Affairs which was responsible for preparing the Committee's work on this subject, adopted its Opinion on 11 May 1991. The Single Rapporteur was Mr Etty.

At its 326th Plenary Session (meeting of 31 May 1995), the Economic and Social Committee adopted the following Opinion unanimously.

1. The Committee refers to its earlier Opinion on the Council Regulation establishing a European Agency for Safety and Health at Work of 29 April 1992⁽¹⁾, and in particular to its observations pertaining to Article 8. It is pleased to find that the Commission now proposes that employers and workers from each Member State will be represented on the Administrative Board of the Agency.

2.1. This enlargement of the Administrative Board from 27 to 48 members will, obviously, put even higher

pressure on the budget of the Agency which the Committee already considered too modest with a view to the wide variety of tasks of the Agency and the quality standards it should satisfy.

2.2. Consequently, the Committee thinks that the budget for the Agency must be increased.

3. The Committee cannot agree with the proposal in Article 8.6 of the present proposal which gives two votes to each Government representative on the Administrative Board and just one to the other members. This can only be accepted for decisions pertaining to budgetary matters. Otherwise each member of the Administrative Board should have one vote.

⁽¹⁾ OJ No C 169, 6. 7. 1992.

Done at Brussels, 31 May 1995.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the proposal for a Council Decision on Community Support for Actions in favour of Older People⁽¹⁾

(95/C 236/14)

On 27 April 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 11 May 1995. The Rapporteur was Mr Laur.

At its 326th Plenary Session (meeting of 31 May 1995), the Economic and Social Committee adopted the following Opinion unanimously.

1. General comments

1.1. The Evaluation Report on Community actions carried out in connection with the European Year of Older People brings out the fact that an ageing population constitutes a major challenge in all the Member States. As the Commission points out, there were in the European Union, at the end of 1994, 70 million people over the age of 60, that is almost 20% of the total population. According to certain forecasts this percentage could reach 25% before 2020.

In accordance with its commitment in the White Paper 'European Social Policy — A Way Forward for the Union', the Commission proposes to help the Member States meet the challenge, particularly by pursuing the following objectives:

- developing the role and potential of the active retired population;
- promoting best practice in relation to:
 - a) improving the situation of older women;
 - b) management of an ageing workforce;
 - c) transition from work to retirement;
 - d) care and access to care for dependent older people;
- strengthening solidarity between generations and the integration of older people in danger of isolation.

The proposed measures include support for transnational activities and partnerships aiming to facilitate the exchange of information and experience between the Member States and promote best practice to deal with the ageing of the population throughout Europe.

1.2. The Economic and Social Committee endorses the Proposal for a Council Decision on Community support for actions in favour of older people. However, it regrets to note that not all the proposals and suggestions made in its Own-initiative Opinion of

25 November 1993⁽²⁾ have been taken up by the Commission.

Nonetheless, the Commission document follows up some of the recommendations made in the Committee Opinion of 25 November 1993 on older people in society⁽²⁾. Similarly, the 1990 Opinion⁽³⁾ stressed that the European Year should promote real 'action' through 'pilot projects' and should set up an effective 'European network on innovative experiences'.

1.3. In view of the criticisms made — partly on matters of principle — of programmes of this kind, particularly as regards the doubts about the legal basis cited (Article 235 of the EC Treaty), the Economic and Social Committee stresses that such programmes are indeed necessary. They provide an excellent opportunity not only to exchange information on social policy developments in the various Member States but also to work towards a European consensus.

1.4. In this context, the Committee stresses that advanced age and the end of occupational activity should in no case become a cause of discrimination, marginalization or suffering. It therefore welcomes the stress placed by the Commission on the participation of older people in society, which should be consistently encouraged, given its importance for the cohesion of the European Union. The Committee stresses that older people are a potential asset to the Member States.

1.5. Despite the merited interest aroused by the action programme under review, the Committee wishes to draw the Commission's attention to other ways of encouraging the participation of older people in the decisions which concern them. In particular, they should be encouraged to participate actively and responsibly in political and social decision-making.

⁽¹⁾ OJ No C 115, 9. 9. 1994, p. 14.

⁽²⁾ OJ No C 34, 2. 2. 1994, p. 61.

⁽³⁾ OJ No C 225, 10. 9. 1990.

The Committee accordingly urges the Commission to promote the drafting of a 'Community Charter of the Fundamental Rights of Older People'. In line with its 1992 and 1993 Opinions, this should cover, in particular:

- the training and retraining of older workers;
- retirement planning and preparation;
- the questions linked with the participation of older people in society: free movement and transfer of pensions, a decent income, the right to a pension, reduced public transport fares geared to income, solidarity between generations;
- care and an environment suited to older people: the right to appropriate health care, housing, homes and reception structures for older people, home help, protection from violence;
- the special needs of certain older people, sometimes at risk: taking into account the needs and desires of older migrants, ethnic minorities, older people living in a rural environment, older women, and dependent older people.

1.6. The Committee regrets that the Commission focuses on a purely vertical approach. It hopes that other measures to assist older people will be integrated, as far as possible horizontally, with all the activities of the European Union.

1.7. Moreover, the Committee hopes that the Commission, by its supporting measures — particularly for foreign language learning — will help to achieve a true Citizens' Europe from which older citizens are not excluded.

1.8. The Committee would also remind the Commission of the desirability of encouraging the spread of new technologies among older people. Bearing in mind the advantages and disadvantages of these technologies, they must not become a factor contributing to exclusion, but must be used so that they help to improve older people's quality of life.

1.9. Finally, the Committee hopes that the Commission, through the measures which it will take and support, will help to combat all the stereotypes linked with age. To this end, consideration should be given to the role of older people in relation to trends in family structures and models of civilization.

2. Specific comments

Article 1

2.1. The Committee has reservations about, and is critical of, the restricted framework of the planned Community action, and its limits in relation to the scale of the problems facing older people and the requests made in a number of its earlier Opinions. It hopes that the Commission's action relating to older people will be included in other Community programmes, e.g. the public health programme (preventive measures to ensure good health in old age), Community transport programmes (measures to encourage access to transport for older people with reduced mobility), or Community measures to encourage tourism.

Article 2

2.2. The Committee approves the adoption of priority objectives. It hopes that measures in favour of older people will give rise to the creation of a clearly defined framework to promote the exchange of views and information on the various approaches to policy on older people in the Member States, with the aim of achieving a convergence of these policies at Community level in cooperation with older people, their relatives and their representative organizations and associations.

It welcomes the acknowledgment of the role and potential of the active retired population, whose needs it has voiced on a number of occasions⁽¹⁾. It is pleased with the aim of promoting best practice in the field of care and access to care for dependent older people. However it regrets that more attention has not been paid to enabling older people to stay in their homes or providing access to suitable housing.

The Committee also regrets that the Commission has not included in its priority objectives the needs and wishes of older people who have become vulnerable and isolated through illness, their ethnic origin and/or an isolated, difficult environment. It further proposes that an additional objective e) be added to the list in Article 2(2), on identifying the initiatives which the Commission could take to improve the quality of life of older people, and a new objective f) on the introduction of policies to encourage older people to participate actively and responsibly in the life of the community.

⁽¹⁾ OJ No C 34, 2. 2. 1994.

Finally, the Committee proposes that an additional objective 4 should be added ensuring a gender perspective in all activities within the framework of the decision, particularly as regards the compilation of statistics and the choice of priority themes.

Article 3

2.3. The Committee regards the measures designed to attain the objectives referred to in Article 2 as satisfactory.

However, it feels that the subjects of comparative studies (paragraph b)) should be linked with the priority objectives described in Article 2: it hopes that the Commission will support research measures linked with practice in the field.

It also hopes that suitable funds will be provided, to make possible maximum dissemination at Community and national levels of the results of the studies.

It strongly urges the development of exchange networks on precise themes, as a way of ensuring the spread of best practice at European level and contributing to greater cohesion in our societies.

It wishes to draw the Commission's attention to special needs, particularly those of older people living in a rural environment and of older migrants, and to the essential role of older people in the transmission of knowledge and skills.

The Committee underlines the responsibility of national policies as the first instance to take and enforce appropriate measures in line with the principles expressed in this Opinion.

Article 4

2.4. The Commission should associate the representatives of the various socio-economic categories, and particularly the representatives of older people's organizations and of professional and voluntary organizations in the implementation of the Decision.

Article 5

2.5. It should be ensured that the studies specially commissioned by the Commission do not absorb an excessive proportion of the funds allocated.

Article 6

2.6.1. The Committee would welcome the creation of a 'European Forum of Older People' where European, national, regional and indeed local organizations can discuss the realization of the programme and its priority themes.

Such a Forum should also make it possible to strengthen the role of older people in the development of the European idea and to strengthen cooperation — with a view to greater solidarity between generations — with the organizations representing other categories of the population.

It would also welcome the creation of national and/or transnational structures which would contribute to an exchange of best practice and would facilitate meetings between national, regional and local organizations of the Member States.

2.6.2. The composition of the Committee provided for in Article 6 should make it possible to associate representatives of the various categories of economic and social life, and in particular those of older people's organizations and of professional and voluntary organizations.

Article 7

2.7. The exchange of information provided for in this Article must be as wide-ranging as possible. In particular, it could include the direct provision of information to older people, when possible, covering subjects such as moving to another country of the Union. It could also include information on the development of national policies on older people.

The Committee would also draw the Commission's attention to the importance of the choice of media on which to concentrate: this choice must take account of the cultural habits of older people.

Article 8

2.8. An interim report assessing the implementation and results of the actions should be presented by 30 September 1998 at the latest. Its aims would include

preparing for the International Year of Older People in 1999 and identifying priorities for future action.

2.9. The report provided for in this Article should also be addressed to the Economic and Social Committee.

Done at Brussels, 31 May 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 1766/92 on the common organization of the market in cereals and Council Regulation (EC) No 1868/94 establishing a quota system in relation to the production of potato starch

(95/C 236/15)

On 28 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 4 May 1995. The Rapporteur was Mr Stokkers.

At its 326th Plenary Session (meeting of 31 May 1995), the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction

1.1. The Commission proposal is based on Treaty Articles 42 and 43. Its aim is to extend the quota system for the production of potato starch established by the Council on 27 July 1994 to the new Member States.

1.2. At the same time it adapts the present version of the Council Regulation in order to:

- ensure that the compensatory payments to farmers are limited to the quantity of potatoes corresponding to the sub-quota of the starch producer;
- correct a drafting error which could lead to false interpretations as to the quantity of potato starch that must be exported without qualifying for a refund.

2. General comments

2.1. The Committee notes that the proposed quota allocation for Austria, Finland and Sweden is based on the amount of potato starch produced in these Member States in 1993 for which national aid was received.

2.2. The reference period chosen for the new Member States differs from that used for the allocation of quotas to the other Member States.

2.3. The Committee realizes that this proposal does not grant the new Member States the quantities they asked for, but would point out that this was also the case in the allocation of quotas to the old Member States.

2.3.1. The aim of the quota system is to bring production into line with the development of the market and in the Committee's view this must be the starting point for the allocation of any extra quotas.

2.3.2. Consequently the Committee recommends that when the quota system is assessed and adjusted to the market in 1997, priority be given to production capacity already in existence now and to capacity expansion projects currently in progress, for which no sub-quotas can be allocated at this time.

2.4. The Committee would point out that in its Opinion on the Commission's 1994/1995 farm price

proposals⁽¹⁾, it called for a degree of flexibility in the administration of the quota arrangements for potato starch.

2.5. One aspect of this flexibility must be that a potato starch producer can utilize, in addition to his quota for a marketing year, more than the present 5% of his next year's quota (e.g. 10%).

2.6. As potato production can vary considerably from one year to the next on account of the weather, a potato

⁽¹⁾ OJ No C 148, 30. 5. 1994.

starch producer must also be able to take up any part of his previous year's quota which he was not able to use because of a shortfall in the potato harvest.

2.7. The Committee regrets that the Commission has not used the necessary adaptation of the present Regulation to tailor the above-mentioned aspects of the quota system more closely to the needs of the potato starch sector.

2.8. Subject to the above comments, the Committee approves the Commission proposal.

Done at Brussels, 31 May 1995.

The President

of the Economic and Social Committee

Carlos FERRER

Opinion on the proposal for Council Regulation (EC) amending for the fifth time Regulation (EEC) No 1866/86 laying down certain technical measures for the conservation of fishery resources in the waters of the Baltic Sea, the Belts and the Sound⁽¹⁾

(95/C 236/16)

On 4 April 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 4 May 1995. The Rapporteur was Mrs Santiago.

At its 326th Plenary Session on 31 May and 1 June 1995 (meeting of 31 May), the Economic and Social Committee unanimously adopted the following Opinion.

1. Introduction

1.1. The Community acceded to the Baltic Sea Convention in 1983 and the technical measures for the conservation of fishery resources in the Baltic Sea were transposed into Community legislation by Regulation (EEC) No 1866/86 of 12 June 1986.

1.2. The present proposal, which amends that Regulation for the fifth time, is based on the recommendations of the twentieth session of the International Baltic Sea

Fishery Commission. Its aim is to protect certain fishery resources in those waters, especially cod and flatfish.

1.3. The proposed measures are of a technical nature and concern the selectivity of fishing gear, mesh sizes, the introduction of restrictions on the percentages of cod by-catches and a ban on cod fishing during a specified period.

1.4. The prime aim of the measures is to ensure better use of existing fishing opportunities for the species in question.

⁽¹⁾ OJ No C 91, 12. 4. 1995, p. 5.

2. General comments

2.1. A rational fisheries policy which is in tune with the resources available has already been called for by the Committee on a number of occasions ⁽¹⁾.

2.1.1. The proposed measures reflect this thinking and therefore merit endorsement.

2.2. The Committee supports EU membership of all international maritime conventions so that it can stoutly defend the rights of Community fishermen and can help to enact vigorous measures to protect fishery resources.

2.2.1. Accordingly, it gives its unreserved support to the measures aimed at limiting and controlling fishing effort, especially in areas where stocks of certain species are dwindling.

2.2.2. However, these measures must be based on accurate scientific data and must not be determined by any commercial interests of the coastal States concerned, at the expense of Community countries which have traditionally fished there.

⁽¹⁾ OJ No C 304, 10. 11. 1993.

3. Specific comments

3.1. The effectiveness of a policy for conserving resources depends basically on the application of equally effective measures to monitor that policy.

3.1.1. The proposed measures will not have a positive effect unless they are fully respected by all operators.

3.1.2. The Committee therefore recommends that fitting and effective measures be adopted to monitor vessels from all the contracting parties which fish in the area.

3.2. As it has already stated, the Committee considers EU membership of international maritime conventions to be highly beneficial.

3.2.1. The fact that the EU is a contracting party to the Baltic Convention empowers it to represent and defend the interests of the relevant Member States with a single voice.

3.2.1.1. The Committee regrets that despite the EU accounting for 65 % of catches in the area it only has one vote.

3.2.2. The Committee calls for more vigorous efforts to change this so that the number of EU votes is properly representative of the Member States.

Done at Brussels, 31 May 1995.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the proposal for a Council Regulation (EC) amending Regulations (EEC) No 1035/72, (EEC) No 2240/88 and (EEC) No 1121/89 as regards the intervention threshold mechanism in the fresh fruit and vegetables sector⁽¹⁾

(95/C 236/17)

On 28 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 4 May 1995. The Rapporteur was Mr Bento Gonçalves.

At its 326th Plenary Session (meeting of 31 May 1995), the Economic and Social Committee unanimously adopted the following Opinion.

1. The Committee endorses the proposed Regulation.

2. General Comments

2.1. The proposal is designed to adjust the intervention threshold mechanism and the steps for overruns to take account of the production of Austria, Finland and Sweden, following their accession to the EU.

2.1.1. The adjustment only concerns apples, tomatoes, cauliflowers and peaches which are produced in the new Member States.

⁽¹⁾ OJ No C 117, 12. 5. 1995, p. 9.

2.2. The adjustment concerning apples will take effect in the 1994/1995 marketing year. For the other products, the adjustment will be made from 1995/1996.

3. Specific Comments

3.1. The Committee supports the proposal to amend the following Articles of the relevant Regulations:

- a) Article 16(3a) of Regulation (EEC) No 1035/72;
- b) Articles 1(3) and 2(3) of Regulation (EEC) No 1121/89;
- c) Article 2(1) of Regulation (EEC) No 2240/88.

Done at Brussels, 31 May 1995.

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

Opinion on the proposal for a Council Regulation (EC) amending Regulation EC No 3699/93 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products

(95/C 236/18)

On 5 April 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 Economic and Social Committee decided to appoint Mrs M. L. Santiago as Rapporteur-General for its Opinion.

At its 326th Plenary Session (meeting of 31 May 1995) the Committee unanimously adopted the following Opinion.

1. Introduction

1.1. Following the provisions of the London Convention (ITC 69), the new method for measuring vessel tonnage has taken GT (gross tonnes) as the basic measure for this purpose, replacing GRT (gross registered tonnage).

1.2. The norms agreed on in the Convention were transposed to Community legislation by Regulation EEC 2930/86.

1.3. The present proposal aims to amend certain provisions of Regulation 3699/93 (FIFG Application Regulation) and to harmonize these parameters for action under the structural measures by the year 2004.

2. General comments

2.1. Aid for fishing fleets under Regulation 3699/93 is, for the most part, based on vessel tonnage.

2.2. It is important to standardize the calculation of vessel tonnage of the Community's fleet so that there are no differences between Member States' vessels.

2.3. The Committee has already issued an Opinion in this connection — CES 1012/94 — in which it draws attention to the fact that the tonnage of various fishing vessels has been measured using different methods,

which can result in discrepancies when measuring the tonnage of virtually identical vessels.

2.4. For this purpose it is necessary to adapt FIFG aid in line with the new tonnage units (GT).

2.5. The proposed new tables (Annex IV — Tables 1b and 2b) strike on average a reasonable balance between Ecus/GRT and Ecus/GT.

2.6. The Committee recommends that the changeover from one unit to another should not lead to a reduction in Community assistance, as happened with vessel construction and modernization subsidies when the FIFG came into force.

3. Specific comments

3.1. During the harmonization period, economic operators can opt for one or the other table. The Committee would point out that this option is mentioned only in the proposal's explanatory memorandum.

3.2. The Committee recommends that until the year 2004, fishing agreements with third countries clearly define which tonnage unit is used as a basis in the agreements, particularly with regard to the payment of financial contributions.

3.3. The Committee endorses the present proposal.

Done at Brussels, 31 May 1995.

*The President
of the Economic and Social Committee*

Carlos FERRER

Opinion on the proposal for a Council Regulation (EC) amending Regulation (EC) No 3699/93 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products

(95/C 236/19)

On 5 April 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 Economic and Social Committee decided to appoint Mrs Santiago as Rapporteur-General for its Opinion.

At its 326th Plenary Session held on 31 May and 1 June (meeting of 31 May 1995), the Economic and Social Committee unanimously adopted the following Opinion.

1. Introduction

1.1. The Commission proposal lays down socio-economic measures to accompany restructuring measures in the fisheries sector.

1.2. The Committee deems these measures vital, even though they do not go far enough, as they will fill the legislative gaps in the criteria and arrangements for Community structural assistance in the fisheries sector.

1.3. Fishing is an important EU activity, and it makes a vital contribution to certain coastal communities by generating employment and income both directly and in related sectors such as the shipbuilding and fish processing industries.

1.4. There are an estimated 300,000 fishermen in the EU, and each job at sea is known to generate four or five on land.

1.5. The purpose of structural policies is to create a modern, competitive fleet and eliminate excess capacity. They seek to steer the sector towards activities which are compatible with the EU's long-term conservation strategy, and to boost the socio-economic development of coastal areas which rely heavily on fishing.

1.6. Measures to eliminate overcapacity are the key to solving the crisis on the fishery product markets. However these measures have a heavy social cost in an often adverse economic environment where alternative jobs are scarce.

1.7. The Committee considers that the introduction of the proposed socio-economic measures fully accords with the thinking of the Treaties. As occurred with the measures put forward for the ECSC, the EU has developed Community initiative programmes under the EAGGF-Guarantee Fund, measures to accompany the

reform of the CAP, an early retirement scheme for farmers⁽¹⁾, and measures to help customs officials.

2. General comments

2.1. The crisis besetting the fisheries sector, caused by the imbalance between resources and capacity, has worsened considerably because of the continuation of other factors such as:

- world market recession;
- wider currency fluctuations;
- liberalization of trade and globalization of the market;
- weakness of import regimes;
- shortcomings in the common market organization;
- the Community's EEA agreements;
- enlargement of the EU;
- impact of pollution and ecological disasters on the depletion of resources.

2.2. These circumstances, combined with the structural weakness of the sector, have reduced the profitability of an activity common to many coastal areas whose socio-economic development relies heavily on fishing.

2.3. In order to ensure the continuity of fisheries, the Council decided in April 1992 that future policy should aim to re-establish the balance between resources and fishing effort, including capacity, and to maintain a balanced and rational management of resources⁽²⁾.

2.4. To this end, a set of multiannual guidance programmes was established. The Committee viewed

⁽¹⁾ Regulation (EEC) No 2079/92.

⁽²⁾ Regulation (EEC) No 3946/92 in OJ No L 401, 31. 12. 1992.

these as an essential means of matching fishing capacity to exploitable resources, and argued that reductions in the Community's fleet should be made on a differentiated basis (Plenary Session of 27 May 1992) ⁽¹⁾.

2.5. Given the worrying state of the resources accessible to EU vessels, the Council agreed that it was necessary to ensure a limitation of fishing effort of the various segments of the Community fleets by a concerted programme of action, fairly balanced between the various Member States ⁽²⁾.

2.6. The criteria and arrangements governing Community structural assistance in the fisheries sector were laid down by Regulation (EC) No 3699/93. This provides a legislative framework for support in the form of guidelines aimed at:

- adjustment of fishing effort;
- re-orientation of fishing activities;
- fleet renewal and modernization of fishing vessels;
- investment aid in the fields of aquaculture, the development of coastal waters, fishing port facilities and processing and marketing.

2.7. These measures are calculated to bring significant benefits over the medium to long term. However, the reduction of fishing effort inevitably has adverse short-term effects on employment and on the socio-economic fabric of many coastal regions which are heavily dependent on fishing.

2.8. The Common Fisheries Policy comes entirely under EU competence, and the EU Community must take responsibility for the consequences of the policy it defines.

2.9. The Maastricht Treaty specifically assigned the EU a role in promoting the economic and social wellbeing of its citizens.

2.10. The Committee considers that the introduction of the proposed socio-economic measures fully accords with the thinking of the Treaties.

2.11. It has frequently been noted that, without accompanying socio-economic measures, it is virtually

impossible for the support schemes listed above to absorb the excess human capacity in the sector ⁽³⁾.

2.12. The Committee points out that it was the first Community body to raise this issue. It regrets that its Opinion was not heeded more promptly, and that the present Commission proposal does not even mention the earlier Opinion ⁽⁴⁾.

2.13. The Committee considers that although the proposed accompanying measures are modest, they represent a first step towards filling a serious gap in existing legislation.

2.14. The Committee regrets the belated nature of the measures, which logically should also extend to fishermen whose vessels have already been scrapped without receipt of Community aid.

2.15. The Committee urges the Commission to promote the setting-up of an inter-trade and inter-institutional forum, based at the ESC, to consider the socio-economic impact of the restructuring of the fisheries sector in the EU.

2.16. The Committee approves and supports the Commission proposal which, although modest, can help to alleviate the adverse social effects of the present restructuring process.

3. Specific comments

3.1. Existing Structural Fund measures have proved insufficient to meet the special needs of older fishermen

⁽³⁾ Advisory Committee on Fisheries; Joint Committee for Social Problems in the Maritime Fisheries Sector; Association of National Organizations of Fishing Enterprises in the EC (Europeche-Cogeca); Committee of Transport Workers' Unions of the European Community (CTWUEC). Resolution adopted by Parliament on 5. 5. 1994 on the future of Community initiatives (Pesca), Explanatory Statement, point 4 (ref. A3-0256/94).

Legislative resolution adopted by Parliament on 29. 9. 1994 on the proposal for a Council Regulation amending for the sixteenth time Regulation (EEC) No 3094/86 laying down certain technical measures for the conservation of fishery resources — amendment No 36 ('Fraga report', ref. A4.-0009/94).

Advisory Committee on Fisheries' opinion on the implementation of the new structural policy in the fisheries and aquaculture sector (document XIV/360/94), plenary meeting of 8. 7. 1994.

Opinion of Europeche-Cogeca on the implementation of the new structural policy in the fisheries and aquaculture sector (ref. CS/P(94) 18 final, EP (94) 19 final, 7. 7. 1994).

⁽⁴⁾ Own-initiative Opinion of the Economic and Social Committee on the social aspects of sea fishing, OJ No C 237, 12. 9. 1998.

⁽¹⁾ Opinion on the 1991 Report from the Commission to the Council and the European Parliament on the Common Fisheries Policy, OJ No C 223, 31. 8. 1992.

⁽²⁾ Council Decision 94/15/EC in OJ No L 10, 14. 1. 1994.

who find it particularly difficult to switch to other types of work.

3.2. The measures now being proposed will go some way towards rectifying the existing shortcomings.

3.3. However, the Committee thinks that the scope of the support is rather narrow.

3.3.1. An early retirement system open to all fishermen, whether or not their vessels are withdrawn, would enable working vessels to replace older crew with young

people whom it is important to keep in the sector as they can inject new dynamism and skills.

3.3.2. The schemes mentioned in Article 14a (2b) should be open to all fishermen, whether or not their vessels are withdrawn.

3.3.3. The provisions of Article 14a (2a and 2b) should also be open to workers on shore.

3.4. The Committee fears that the planned funding is insufficient and that the desired objectives will not be achieved unless FIG allocations are increased.

Done at Brussels, 31 May 1995.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the proposal for a Council Regulation (EC) amending Council Regulation (EC) No 603/95 on the common organization of the market in dried fodder⁽¹⁾

(95/C 236/20)

On 10 April 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 4 May 1995. The Rapporteur was Mr Strasser.

At its 326th Plenary Session (meeting of 31 May), the Economic and Social Committee adopted the following Opinion unanimously.

1. The purpose of the proposed Council Regulation is to establish national guaranteed quantities (NGQs) of dried fodder for Austria, Finland and Sweden in accordance with the same procedure as for the other Member States and to adjust accordingly the maximum guaranteed quantities (MGQs) for the Community as a whole.

The NGQs for the Union of the Twelve's members were established on the basis of the data available to the Commission in July 1994, by taking into account their average dried fodder production in the marketing years 1992/93 and 1993/94 for which aid was received under Article 5(2), first subparagraph of Regulation (EEC) No 1117/78.

Austria, Sweden and Finland also produce dried fodder, for which aid can be granted in accordance with the common organization of the market in dried fodder. However, this requires the establishment of NGQs. The Commission has based the NGQs for the new Member States on their average dried fodder production in the calendar years 1992 and 1993. The proposed quantities are as follows:

- Sweden: 11,000 tonnes
- Finland: 3,000 tonnes
- Austria: 4,400 tonnes.

2. The Committee essentially endorses the Commission proposal (for a Council Regulation). Neverthe-

⁽¹⁾ OJ No C 79, 31. 3. 1995, p. 7.

less, it notes that, whilst the Austrian NGQ for dried fodder largely satisfies the production requirements, the same cannot be said of Finland and Sweden, both of which produced considerably more artificially dried fodder in the years preceding the reference period. Weather conditions in those countries caused output to fall in 1992 and 1993 below the long-term average. The amount of 6,000 tonnes recently applied for by Finland would allow at least one drying plant to be used to

capacity. Sweden applied for an NGQ of 15,000 tonnes. The Committee therefore calls on the Council to re-examine the Commission proposal in respect of the Finnish and Swedish NGQs. In this connection, it should be borne in mind that aid granted pursuant to Regulation (EC) No 603/95 represents an important contribution to the preservation of grassland farming — particularly in areas where there is virtually no alternative to this activity.

Done at Brussels, 31 May 1995.

*The President
of the Economic and Social Committee*

Carlos FERRER

Opinion on the proposal for a Council Regulation (EC) adjusting, for the fifth time, the system of aid for cotton introduced by Protocol 4 annexed to the Act of Accession of Greece⁽¹⁾

(95/C 236/21)

On 17 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 the preparing the Committee's work on the subject, adopted its Opinion on 4 May 1995. The Rapporteur was Mr Zarkinos.

At its 326th Plenary Session (meeting of 31 May 1995), the Economic and Social Committee adopted the following Opinion by 91 votes to 36 with 17 abstentions.

1. General comments

1.1. The Committee welcomes the Commission's proposal to maintain the current system for aid for cotton production, which is a significant part of the agricultural sector in some regions of the EU (Greece and Spain). Any move away from a system of aid based on compensation payments (difference between the guide price and the world price) would be disastrous for cotton production in the EU and for cotton producers' incomes, and would lead to a decline in the quality of cotton.

1.2. The Committee regrets the Council's decision to restrict the referral to the proposal concerning the

distribution of the GMQ of cotton between the two producer countries (Greece and Spain).

1.3. The Committee feels that an Opinion on the overall modification of the COM (common organization of the markets) in cotton, the subject of Commission document COM(95) 35 final — 95/0061 (CNS) would have provided the Council with useful ideas and views, particularly concerning the level of expenditure in the sector, guide price levels, the system for small producers, establishment of the world price for the marketing year and of arrangements for aid payments, a reference quality standard, and the strengthening of controls.

2. Specific comments

2.1. Under Protocols 4 and 14 on cotton, annexed to the Acts of Accession of Greece and Spain respectively, a system was established with the aim of:

⁽¹⁾ OJ No C 94, 14. 4. 1995, p. 4.

- supporting the production of cotton in areas where it is an important element in the agricultural economy;
- ensuring a decent income for producers;
- stabilizing the market by improving supply and disposal structures for the product.

2.2. The EU has a significant shortfall in ginned cotton (fibre). According to Eurostat data, the average figures for ginned cotton in the 1991-1993 period were 296,000 tonnes produced, 107,000 tonnes exported, 925,000 tonnes imported and 1,114,000 tonnes consumed. The supply level was therefore 25 % (EUR-12). Following enlargement, EU supply of ginned cotton is less than 20 %.

2.3. The cotton sector is of considerable socio-economic importance in certain EU regions. It provides employment for some 150,000 families in the primary sector and for more than 100,000 individuals in the secondary sector. Cotton's share of final agricultural production in Greece was, in 1992, of the order of 9.4 %. The percentage is up to 4 % in some areas of Spain (Andalusia).

2.4. Cotton is grown on irrigated land, and has in recent years replaced other similar irrigated crops (maize, sugar beet, tobacco, industrially-produced tomatoes) whose production is limited.

2.5. Cotton cultivation methods, using fertilizers and plant health products, do not generate greater environmental problems than other comparable intensive crops. Indeed, cotton offers an environmental benefit, in that it is the main textile fibre of plant origin, and is progressively gaining ground at the expense of synthetic fibres. However, in order to minimize the environmental problems of cotton cultivation, the Section considers that the efforts which have been launched in Greece in favour of biological production should be encouraged and supported, although this is more labour intensive than traditional methods. The EU should give particular financial support to those producers who switch to biological production.

2.6. The considerable shortfall of cotton in the EU, the probable expansion of cotton production in other EU countries, its socio-economic importance in certain EU regions, its non-food nature and the increased demand for cotton on world markets demand a higher GMQ of cotton in the EU. The Section believes that cotton production in the southern EU countries needs

to be encouraged, and that this could be achieved with a system which strengthens current production or at least keeps it close to present levels. In the Section's view, the total GMQ for each marketing year should be increased to 1,338,500 tonnes of unginced cotton.

2.7. The Committee considers that the GMQ should be equitably divided between the Member States in the form of guaranteed national quantities (GNQ) based on normal production levels of each country. The Committee accordingly believes that Greece's GNQ should stand at 987,000 tonnes of unginced cotton: the corresponding figure for Spain should be 347,000. A GNQ of 3,000 tonnes could be allotted to Italy, whose production up to 1991 was minimal, and 1,500 tonnes for Portugal.

2.8. The Committee feels that the guide price should be kept at current levels (ECU 122.51/100 kg). Provided that exceeding the GMQ does not lead to uncontrolled growth of expenditure, the Committee is in favour of a corresponding adjustment of the guide price. Thus, if the GMQ is exceeded by up to 10 %, the guide price in the two producer countries is reduced by a percentage equal to half the percentage excess. If the GMQ is exceeded by more than 10 %, an additional reduction is made in the Member State responsible for the excess, equal to half the percentage excess of the GNQ. Under no circumstances should the additional reduction be more than 15 %. No guide price reduction should be imposed for countries whose real production of unginced cotton does not exceed 3,000 tonnes.

2.9. The Committee is of the view that while controls in the sector must certainly be strengthened, in order to prevent past occurrences, Community arrangements must be transparent and straightforward with no room for misinterpretation. The Commission's intention to introduce additional controls on the basis of yield coefficients and to establish a link between the area under cotton cultivation and the amount of unginced cotton delivered to the ginners is appropriate. This link will strengthen the existing controls on the volume of ginned cotton produced by the ginners. Similarly, in the Committee's view, the Member States should also strengthen their controls. It should be made perfectly clear that the Committee thoroughly condemns any irregularities or occurrences of fraud whatsoever, as this is harmful to the Community budget, the product and, lastly, to the income of European producers.

2.10. The Committee urges the Commission to submit a report to the Council by the beginning of the 1998/1999 marketing year at the latest evaluating the operation

of the control system in the cotton sector. If the report shows it to be necessary, the Council may — after

consulting the European Parliament and ESC — decide to adjust the system.

Done at Brussels, 31 May 1995.

The President
of the Economic and Social Committee
Carlos FERRER

APPENDIX

to the Opinion of the Economic and Social Committee

Amendments rejected (third paragraph of Rule 47 of the Rules of Procedure)

The following amendments were rejected during the discussion:

Paragraph 2.5

Add:

'A proportion of the support should be set aside expressly for measures to promote and implement integrated Pest-Management programmes in cotton production; to provide improved protection of the environment and health and safety of workers. Member States should report on the application of those funds on an annual basis.'

Reasons

There have been problems worldwide with resistance to pesticides used on cotton with more and more chemicals being used as a result. Much useful work has therefore been done on Integrated Pest-Management to reduce the need for pesticides for cotton, from which the EU can benefit. The EU has recognized in its fifth Environmental Action Programme, in its legislation on plant-protection products and in its Lomé aid programme the importance of encouraging Integrated Pest Management, which is also supported in the UNCED declarations. Adoption of IPM for cotton could act as a model for other sectors.

Result of the vote

For: 54, against: 57, abstentions: 12.

Paragraph 2.8

Delete the first sentence of paragraph 2.8 and replace by the following:

'The Commission proposes that the guide price would henceforth be fixed at the rate of ECU 110.73 per 100 kg. On the basis of a GMQ of 947,000 tonnes (as proposed by the Commission) and on the assumption (as made by the Commission) that the average world price is ECU 30.2 per 100 kg, the annual cost would be ECU 765 million. The Committee supports the Commission's proposal to set the guide price at a rate which would maintain total aid to cotton producers at the 1992 level.'

Reasons

The Draft Opinion devotes only one sentence to the important subject of the level of the guide price. It presents no arguments for making a different proposal from that of the Commission.

On the basis of the Commission's assumed world price level of ECU 30.2 per 100 kg (and that assumption is not challenged in the Draft Opinion), the guide price (as proposed in para. 2.8) applied to the GMQ (as proposed in para. 2.6 of the Draft Opinion) would increase the cost to the EU of aid for cotton to ECU 1,225 billion (i.e. 62% above the Commission's proposal). However, should an average world price of ECU 65.3 per 100 kg be reached (although that is probably an unrealistic assumption), then a guide price level of ECU 122.51 per 100 kg could be applied and the total cost to the EU would remain ECU 756 million.

Result of the vote

For: 50, against: 67, abstentions: 16.

Paragraph 2.8

Delete all of paragraph 2.8 after the first sentence and replace by a new paragraph 2.9 as follows:

'An adjustment to the guide price is proposed to be made to avoid uncontrolled growth of expenditure in the event that production exceeds the GMQ. If the GMQ is exceeded by up to 10%, the guide price in the producer countries is reduced by a percentage equal to half the percentage excess; if the GMQ is exceeded by more than 10%, an additional reduction, proportionate to the excess over the GMQ, is made in the Member State responsible for the excess. The Committee considers that countries whose actual production of unginned cotton does not exceed 3,000 tonnes should not be taken into account in this calculation.'

Reasons

The proposal in the Opinion that there should be an upper limit of 15% on the reduction in guide price triggered by overproduction would remove a necessary control over EU expenditure.

Result of the vote

For: 52, against: 72, abstentions: 7.

Opinion on the Draft Council Regulation (Euratom, EC) concerning structural business statistics

(95/C 236/22)

On 31 May 1995, 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 the Draft Council Regulation (Euratom, EC) concerning structural business statistics.

The Section for Economic, Financial and Monetary Affairs which was responsible for preparing the Committee's work on this subject adopted its Opinion on 16 May 1995. The Rapporteur, working without a Study Group, was Mr Cal.

At its 326th Plenary Session on 31 May and 1 June (meeting of 31 May 1995), the Economic and Social Committee adopted the following Opinion unanimously.

1. General comments

1.1. The need for harmonized statistics on businesses has gradually increased as the single market has developed. New requirements flowing from competition, social, environmental and business policies have rendered these requirements even more pressing. Finally, harmonization of the way the gross national product at market prices is determined means that results have to be compiled which are comparable between the countries of the European Union.

1.2. The proposed Regulation does not intend to harmonize the systems for compiling data, but rather to establish a legal framework common to all business activities and business statistics areas so that they can be compared, on the basis of data collected under the respective national systems.

1.3. The basic thinking behind the proposed Regulation, which the Committee endorses, is to take full advantage of existing systems and to reduce the number of variables which require direct collection in businesses, thus reducing their administrative costs. Therefore, the use of sampling methods, direct calculation of some variables by inference and the use of other administrative sources (VAT departments, social security contributions, etc.) should be endorsed and encouraged, as should the spread of new electronic data transmission methods.

1.4. For businesses, employers' and workers' representatives and in particular for small and medium-sized enterprises, there is a growing need for statistical data (on wage structures, labour costs and training) now that national markets are being unified, world markets are being globalized and given the increased competitiveness resulting from these developments.

1.4.1. Moreover, only reliable statistics which are comparable between Member States on businesses, and

particularly on income and employment, can provide a suitable basis for assessing the progress of genuine convergence between Member States' economies.

1.5. This Draft Regulation aims:

- a) to provide a common framework for collecting, transmitting and developing structural business statistics in order to produce data which is comparable between the different Member States, so as to meet the Commission's, Member States', enterprises' and other users' need for statistical information;
- b) to strengthen the statistical system incorporating the recently developed Community statistical tools;
- c) to adapt the list of data to be collected;
- d) to create a legal framework for collating statistics.

1.6. The Draft Regulation contains a common module with the variables which should be included in structural business statistics in all sectors, together with two other modules which deal with structural statistics in industry (mining and quarrying, manufacturing, electricity, gas and water supply and construction) and structural statistics on the distributive trade.

1.6.1. The Committee hopes that the module dealing with financial services (banking, insurance and other financial activities) will be proposed as quickly as possible, given the increasing importance of this sector, even if initially it is not possible to include pension funds.

1.7. The Committee feels that using the sums of money provided for in the financial statement appended

to the Opinion could provide a major incentive for Member States' statistics services to speed up adjustments to their respective collection systems, particularly with regard to the distributive trade.

2. Specific comments

2.1. The Committee endorses the move to set the maximum period for transmitting rapid results for business statistics at ten months and hopes that these results will be published for users immediately thereafter.

2.1.1. However, the number of enterprises, wages and salaries and gross investment should be included in the list of characteristics set out in the part on the distributive sector (Section 7, No 2) as is the case in the module on industry.

2.1.2. In the part on specific demographic data in the distributive sector, the number of births and deaths of

enterprises should be added to the annual statistics to be compiled, in line with the module on industry.

2.2. In Article 11 (Review), the Economic and Social Committee should be one of the addressees of the report referred to.

3. Final comments

The European Parliament has advocated that Eurostat become an autonomous body retaining special technical links with the Commission, with a legal personality, financial autonomy and its own budget along the lines of the recently established Institutions Translation Centre. The Committee feels that this could make a positive contribution to better clarification of both Eurostat's and the European Commission's role and that this possibility should be discussed as part of the Intergovernmental Conference.

Done at Brussels, 31 May 1995.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the proposal for a Council Regulation (EC) adapting Regulation (EEC) No 404/93 as regards the volume of the annual quota for the import of bananas into the Community following the accession of Austria, Finland and Sweden

(95/C 236/23)

On 27 April 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 Economic and Social Committee decided to appoint Mr Colombo as Rapporteur-General for its Opinion.

At its 326th Plenary Session (meeting of 31 May 1995) the Economic and Social Committee adopted the following Opinion by a large majority with 12 dissenting votes and 26 abstentions.

1. The Commission proposal seeks to amend the tariff quota established in Regulation (EEC) No 404/93 for the import of third country bananas and ACP non-traditional bananas, so as to take account of the consumption needs of Austria, Finland and Sweden.
2. The 353,000 tonne increase proposed by the Commission caters adequately for the annual banana consumption of the three new Member States.
3. The Committee therefore approves the proposal.

Done at Brussels, 31 May 1995.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the proposal for a Council Regulation (EC) amending Council Regulation (EC) 2100/94 on Community plant variety rights⁽¹⁾

(95/C 236/24)

On 1 June 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 Economic and Social Committee decided to appoint Mr Pricolo as Rapporteur-General for its Opinion.

At its 326th Plenary Session (meeting of 1 June 1995), the Economic and Social Committee unanimously adopted the following Opinion.

1. Introduction

1.1. Council Regulation (EC) 2100/94 of 27 July 1994 established specific provisions for the granting, at Community level, of plant variety rights. In essence, the system accords industrial property rights to persons who breed, discover or develop new plant varieties.

1.2. In order to offer proper legal protection to breeders of new plants, and at the same time ensure that the Community system is compatible with the requirements of the single market, a Community Plant Variety Office was set up. The office, which reports to the Commission, has sole responsibility for such matters as the granting or termination of Community plant variety rights, the approval of a variety denomination or the amendment of an approved variety denomination, and objections to an application for a Community plant variety right or to a proposal for a variety denomination.

1.3. Regulation 2100/94 stipulates that appeals against decisions taken by the office may be lodged with its 'Boards of Appeal' (jurisdiction of first instance), and that a further action against the conclusions of these boards can be brought before the EU Court of Justice (jurisdiction of second instance).

1.4. The present proposal corrects some inaccuracies in the German and English versions of Regulation 2100/94, and seeks to align the wording of the Regulation with that of Council Regulation 40/94 on the Community Trade Mark, as regards action brought before the Court of Justice against the boards of appeal.

⁽¹⁾ OJ No C 117, 12. 5. 1995, p. 10.

2. General comments

2.1. The Committee welcomed the setting-up of the Community variety rights system, and now endorses the Commission's move to incorporate into Regulation 2100/94 the wording of Article 63 of Regulation 40/94 regulating the appeal procedure to the Court of Justice for the Community Trade Mark.

2.2. A uniform set of rules embracing the various sectors of industrial and commercial property will ensure that the appeal procedures are consistent and will eliminate the discrepancies which currently exist — albeit as regards formal and not substantive aspects — between the Regulation on the Community Trade Mark and the Regulation on plant variety rights.

2.3. However, the Committee suggests that the Council take a definitive decision as soon as possible on where the Community Plant Variety Office is to have its headquarters so that it can be set up as soon as possible and get on with the tasks incumbent upon it under the Regulation.

3. Specific comments

3.1. The Committee has no major reservations about the Commission proposal, and endorses its aims and content.

3.1.1. However, in the revised Article 73(5), the Committee would stress the case for replacing the words 'two months' by 'sixty days'.

3.1.2. In the Committee's view, this would provide a more definite deadline for bringing an action before the Court of Justice.

Done at Brussels, 1 June 1995.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on Relations between the European Union and Albania

(95/C 236/25)

On 19 October 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 relations between the European Union and Albania.

The Section for External Relations, Trade and Development Policy, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 11 April 1995. The Rapporteur was Mr Masucci.

At its 326th Plenary Session (meeting of 31 May 1995), the Economic and Social Committee adopted the following Opinion by a majority vote, with one dissenting vote and two abstentions.

1. The importance of Albania for the EU

1.1. Although Albania is a small country with just over three million inhabitants, there are a number of important reasons for boosting its links with the EU.

1.2. Albania is undergoing a democratization process which in three years has transformed the face of the country.

However, the structural fragility of the economy means that the process is not easy. If economic and social conditions were to become intolerable — for a population which now has other terms of comparison than the dark decades of dictatorship and isolation — Albania's fledgling democracy could be thrown dangerously off course and its very existence might be threatened.

Support for the democratization process is thus grounds enough for an effective EU commitment to Albania. It would also provide an opportunity to show that the Community's main aim — to the east and to the south — is the spread of democracy, and not the pursuit of stability at any cost, even if this stability is secured by an illiberal regime.

1.3. Albania is also important to the EU because of its geographical location.

It borders with two Member States (Greece and, across the Straits of Otranto, Italy), and is the EU's south western gateway to the Balkans.

This location is clearly of interest to the EU in a number of respects: strategic, geopolitical, risks of an extension of the ethnic and religious conflicts in the Balkans,

implications of possible political, economic or social destabilization of Albania, the beneficial role which it could play in the region.

1.3.1. As regards the strategic and security aspects, it must be remembered that Albania, rightly or wrongly, feels threatened.

This has spurred it to forge alliances on all fronts, or at least on ones which have proved receptive. Hence, having joined the CSCE at the start of the democratization process, Albania concluded a military agreement with Turkey in summer 1992. The agreement gives Turkey the role of implicit intermediary of the United States. The Albanian Government, especially after Albania's failure to join NATO (it was the first eastern European nation to seek membership), has come to consider the United States as its main military ally. In the months following the American military presence in the Former Yugoslav Republic of Macedonia (Fyrom), US use of Albanian military bases was again mooted. Technical assistance projects were discussed with US delegations and there was talk of an agreement with the CIA on the stationing of two spy-planes at Albanian bases. Above all, President Clinton sent a memorandum confirming US military aid, including arms exports, to Albania. Relations were also boosted by the Albanian Defence Minister's visit to the Pentagon in June 1994. A military cooperation agreement has even been drawn up with Malaysia.

1.3.1.1. The EU is signally absent from this framework of strategic alliances, apart from a memorandum of military understanding with the UK, signed in June 1994. This is worrying, as absences of this type are often paid for at other levels, given the interdependence between strategic decisions and economic and political arrangements. For the immediate future, the abovementioned framework has two adverse effects. Firstly,

Albania is now a full member of one of the two strategic axes confronting each other in the Balkans. This is clearly at odds with the idea of an Albania which, while certainly not unarmed, is not involved with either party and is able to play an important role in the peace process in ex-Yugoslavia. Such a role would only be feasible with the material backing of an analogous and more general strategic role on the part of the EU.

The second adverse effect of the present strategic framework is that the entry onto the scene of Turkey (the aspirant regional power) not only impinges on a role which could have fallen to Greece (as the only EU member in the region, and in view of its economic development level), but is also likely to nudge it towards the opposing strategic axis.

An EU presence, with its own strategy, would enable Greece to play the active role which is its due, as authorized for Bulgaria and Romania.

1.3.2. In the imploding situation in the Balkans, Albania could be a further, geopolitical complicating element.

It must be remembered that around three million Albanians live in neighbouring countries, in a situation of ethnic and linguistic continuity. The largest community is in Kosovo (where Albanians form 92% of the total population), followed by Fyrom (25% according to Skopje, 40% according to the Albanians). There are also Albanian communities in Montenegro and Serbia. The self-determination movements in these communities are matched by calls from political groupings in Albania for the reunification of Albanians in a single State. A coordinating committee for all Albanians in the Balkans was established in December 1992 to consolidate these aspirations.

The Albanian Government and President Berisha have so far shown considerable prudence and moderation in this area, first and foremost over the risk of the Yugoslav conflict spreading into Kosovo, which could draw Albania itself into the conflict. The Albanian Government has encouraged direct talks between the leaders in Kosovo and the Belgrade authorities. In this way, Albanian diplomacy has done much to further the Kosovan cause (resolutions and declarations by the UN, CSCE and United States).

Even more worthy of note is the prudent and moderate response to the measures recently adopted by the Fyrom Government against the Albanian minority (closure at the beginning of December 1994 of the Albanian language university of Tetovo) and against Kosovan

autonomist representatives. However, one cannot discount the possibility that any deterioration in Albania's domestic situation (in the form of political instability and/or a serious economic crisis) could — as happens all too often — lead the regime to woo back lost popular support at home by latching onto an external objective, in this case the dream of an ethnic greater Albania. Aside from other considerations, this has the handicap of only having been achieved during the second world war, and by the Axis powers. Its implications for the destabilization of the region would be enormous, not only northwards to Serbia, but also to the south and east. Loss of the Albanian region would jeopardize the very survival of the Fyrom, producing chain reactions into Bulgaria and Greece.

1.3.2.1. Again in the geopolitical field, it should be noted that in June 1992 Albania's quest for the widest possible range of alliances led it to sign a Black Sea economic cooperation pact (CEN), spearheaded by Turkey. The medium-term objective of establishing a common market of 200 million people is to be welcomed, particularly if it forms part of the Euro-Mediterranean strategic area which the ESC has long advocated, and, with a view to polycentric development, it complements European integration and Mediterranean joint development.

At all events, Albania's membership of the CEN (which is economically justified from the viewpoint of east-west integration of the southern Balkans) must be offset by appropriate strengthening of its and Turkey's political and economic links with the EU.

1.3.3. As regards ethnic conflicts, a weakening of Albanian democracy would heighten existing tensions with the Greek minorities in southern Albania, and hence with Greece, which actively supports them. These tensions are not just fuelled by the legitimate aspirations of these minorities for recognition of their linguistic and cultural rights, and by the 'Omonia' political movement, which makes significantly more extreme claims — not backed by the Greek Government — about the 'Greekness' of southern Albania. Tensions worsened with the escalation of diplomatic incidents between Greece and Albania beginning in 1993 and culminating in the summer and autumn of 1994. Following the trial of five 'Omonia' members who were sentenced to prison terms for spying, incitement of separatism and illegal

possession of arms, the Greek Government closed its borders with Albania and expelled 70,000 clandestine Albanian immigrants (having expelled 30,000 in the diplomatic crisis of 1993). In both countries, anti-Greek and anti-Albanian propaganda reached unprecedented levels and tones, and unwonted threats and accusations were exchanged. Troops were posted on both sides of the border, ambassadors recalled, and various diplomatic and economic sanctions introduced. Within the EU Council of Ministers, Greece continued to block the balance-of-payments aid which is so important for the Albanian economy. The blockage has now partly been lifted.

Recently, relations have fortunately improved, particularly since the reduction in the sentences faced by the 'Omonia' members who are likely to be released shortly. A clear sign of the upturn, alongside the resumption of diplomatic relations, was the assistance provided by Greece during Albania's recent energy emergency.

After a period of strained relations over recent years, high-level contacts between the two countries seem to have opened the way for closer cooperation. The climate is now conducive to moves towards the conclusion of a bilateral agreement on illegal immigration. The climate is also conducive to an increase in Greek and general EU investment in Albania, which however requires concerted joint action and support.

1.3.3.1. The course of the Greek-Albanian crisis prompts the following considerations. On the one hand, the nationalist card played by the Albanian President was not appreciated by the population as a whole, who were much more concerned about the practical adverse effects of the crisis (it is calculated that in 1993, remittances from emigrants in Greece totalled USD 900 million). Given that total international aid to Albania in 1991-1993 did not exceed ECU 1,227 million, it becomes clear that good Greek-Albanian relations are of decisive importance for economic, and hence social and political development in Albania. On the other hand, however, there is no doubt that the positions of the nationalist groups in both countries and their respective territorial claims to Northern Epirus and 'Tsameria' (the Albanian nationalist name for Greek Epirus) should become less entrenched as political relations between the two countries become more settled.

Under no circumstances can the EU allow itself the risk (less acute for the moment, but no-one knows for how long) of a new ethnic conflict in the Balkans which would directly involve an EU Member State.

1.3.4. At present there are no major religious conflicts in Albania, but the geopolitical and ethnic developments described above, and their links with religious issues, add up to a potentially explosive situation not only for the religious coexistence of its inhabitants (70% Muslim, 20% Eastern Orthodox, 10% Roman Catholic, plus a small Jewish minority), but also for the Balkan region as a whole.

1.3.4.1. Various factors are at play here, first and foremost the fact that the Vatican and the Orthodox churches support opposing strategic axes in the Balkans. For instance, the pro-Serb stance of the Orthodox church sets its Albanian members against their country's decision to take the opposing side. Furthermore, there is a misconception (also found among Greeks) that the orthodox population (of 3-400,000) is a Greek minority, when according to the 1989 census, Greek speakers in fact numbered less than 59,000.

1.3.4.2. Still more worrying are the tensions which could break out among the Muslim majority in Albania. One must not underestimate the effects of the campaign by promoters of the ethnic wars in ex-Yugoslavia (Serbs, Croats and, above all, Bosnian Serbs) to attribute the conflict to irreconcilable cultural and religious differences rather than to ethnic, nationalistic and economic motives. In this way Albania is presented, not as an essentially secular state but as a Muslim nation, which as such is unable to guarantee the coexistence of religious minorities. The EU must take steps to prevent a repetition of what happened in Bosnia, where a genuinely secular population has become fertile ground for Islamic fundamentalism.

The close strategic, political and economic links which Albania has forged with Muslim countries and organizations are a further consideration. As well as the above-mentioned links with Turkey, there is Albania's accession in 1992 to the Islamic Conference Organization, and the opening in Tirana of an imposing office of the Islamic Development Bank which is extremely active in channelling economic aid from Muslim countries. A major Saudi Arabian holding company (IAIDC) was also set up recently for investment in Albania.

These developments do not in themselves further the cause of those who, particularly in ex-Yugoslavia, stir up campaigns against the 'Muslim threat' in the Balkans (to suggest that the conflict is one between Christians and Muslims merely worsens instability in the region).

However, there are legitimate grounds for concern that decentralized economic cooperation targeted at Albania's Islamic communities and handled by religious bodies — the Iranians being particularly active here — could provide a conduit for the spread of Islamic fundamentalism. This could become a real risk if the Muslim community begin to feel that Europe has abandoned them. What the EU must avoid at all costs is a repeat of events in Bosnia, where an essentially secular Muslim population has provided fertile ground for the Islamicists.

1.3.4.3. The European Union must do everything in its power to strengthen the lines of dialogue and communication between the various ethnic, religious and cultural groups in Albania. It must use the case of Albania as a prime opportunity to develop interdenominational, interfaith and cultural dialogue.

Religious conflicts can be avoided if the forces and agents for peace and progress in the region are given prompt, effective and decisive support.

The European Union has an obligation to support all political and social forces in Albania who are not seeking to lead Europe and the Balkans into a period and climate of religious wars. It is essential to encourage forms of cooperation and joint action between Orthodox, Catholic and Jewish Albanians at all levels, particularly in youth programmes and in the creation of a spirit of cooperation, acceptance and shared experience between these communities and the Muslim religious establishment, society and young people.

1.3.5. Further risks to the stability of the young Albanian democracy are posed by the spread of mafia and organized crime, which is aided by the clan-structure of Albanian society. Research carried out by the major European police forces, and published by the Paris-based Observatoire Géopolitique des Drogues has revealed that drug-trafficking in the Balkans — which is closely linked to arms-dealing — has in the last few years been the domain of the Kosovo mafia organization. This was later joined by the Croatian mafia, which in turn, has links with the Sicilian Mafia. It is only more recently that Albanian mafia organizations have appeared on the

scene, with the development of the 'new Balkan routes'. Heroin is unloaded from Turkish ships at Albanian ports and routed through the Kosovo region and Belgrade into Hungary. The drug is then distributed throughout Europe, particularly in Switzerland, where Albanian networks now have a near-monopoly of the heroin market. Most of the arms also come from Switzerland, and the same organizations smuggle them into the former Yugoslavia. Investigations by Italian magistrates have identified a new trafficking route — again involving the Albanian mafia — which runs from Albania direct to Italy (principally Rome), with drugs being landed along the Apulian coast.

Equally worrying is the latest activity of the Albanian mafia which, with the help of the Apulian mafia and the Neapolitan camorra, is bringing illegal workers (held in conditions bordering on slavery) and prostitutes into Italy (the latter for highly profitable networks that are almost invariably run by Albanian criminal organizations). It would also appear that close links exist between the Albanian mafia and the Islamic movements, which are organizing networks of influence in Europe from Germany.

The most likely danger for Albania is that the mafia organizations will further increase in strength and manage to infiltrate the corridors of political power (there are numerous examples of this in both Europe and America), thus endangering the future of democracy itself. At the moment it is impossible to envisage the consequences this might have, not only for Albania, but also for the EU. It is therefore in our interest to help the emerging Albanian democracy to weed out the mafia organizations, and thus avoid the danger of Albania becoming a kind of no-man's-land, prey to large-scale international trafficking, and to drugs and arms dealing.

1.3.6. It is also in the EU's interest to ensure that the Albanian economy and Albanian society are not destabilized by failure to take off or by distorted development. The most immediate consequence would be an increase in emigration, which, given the recent resolution of the Council of the European Union, can only continue to be clandestine. This would further complicate relations between Albania and Greece, where there are already between 250,000 and 350,000 Albanian illegal immigrants. It would also affect other EU Member States, notably Italy. A worrying indication of this appeared in October 1994 when there was a further mass exodus to Italy, reminiscent of events in 1991, which was only partly stemmed by Albanian police at the port of Durrësi. The sudden upsurge of emigrants is explained by the restrictions and expulsions imposed by the Greek Government. However, the flow of illegal

emigrants to Italy has never really stopped during the last three years.

1.4. The long list of problems and risks which the development of the situation in Albania might involve for the EU brings us back to the premise of this analysis: the need to strengthen democracy in Albania by aiding the democratic process and economic and social development. The only antidote against geopolitical, ethnic and religious disarray, and against any risk of instability in Albania, is to place democracy at the very heart of politics, the economy and society.

This is also essential if Albania is to play a positive, 'European' role in the Balkans, by becoming, in the medium term, an EU outpost which will promote peace in the region and new forms of cooperation based on a new concept of integration for the whole area.

2. Transition problems

2.1. The closer relations between Albania and the EU, which we have argued for above, must in the first instance provide concrete solutions to the problems facing Albania today. These can be separated into three categories: problems regarding transition; those deriving from measures regarding macro-economic stabilization and adjustment; and those concerning development.

The problems involved in the transition to democracy and the market economy are not unlike those experienced by other central and eastern European countries. They do differ, however, in magnitude and scope, due to the ideological crudity of the dictatorship which ruled supreme for 50 years, and condemned the country to autarkical isolation.

The problems are, firstly, those relating to political change and the process of democratization; secondly, those regarding the transition towards the market economy and economic democracy; and thirdly, those involved in the transition towards a more socially cohesive society.

2.2. *The political transition and the democratization process*

2.2.1. In only three years, Albania has made enormous strides towards political democracy. All citizens are guaranteed basic political rights, there are free national and local elections, and a multi-party parliamentary system has been established. The centralized administration of the old regime has given way to administrative decentralization, with 37 administrative regions and

310 districts being created, even though, more recently, this decentralization has been offset by the establishment of 12 prefectures, with government-appointed prefects. Officials in certain key posts in the public administration and the security services have been replaced. More important still, the role of the military has been reduced and there have been cuts in the armed forces and police.

A number of foreign observers have identified a risk of political backsliding, notably within the last year. Representatives of the Democratic Party (the majority party, with 60% of the vote at the 1992 elections) are tending to 'take over' the public administration. Decisions are increasingly not taken at the appropriate levels as orders are awaited from above. In short, political power is being recentralized, notably in the hands of the President.

The gap between formal and real democracy — a phenomenon which is also well known within the EU, and which in some Member States is in danger of worsening — is a matter of some concern in Albania because democracy is too recent to have become firmly rooted in political life and society. Political life degenerated in 1993 and 1994 with factional struggles in the Democratic Party, parties splitting and new parties being set up, alarming cases of political violence and, above all, authoritarian and arbitrary handling of political events on the part of the authorities (the opposition Socialist Party has frequently been stopped from holding demonstrations).

These regressive trends in Albania's political life seem to have been sparked by the declining popularity of the Prime Minister and President prompted by the difficulties in launching economic and social development. And it is in this light — in other words, as an attempt to set public opinion against convenient scapegoats — that many observers interpret the trials of the political leaders of the transitional stage.

It should also be noted that worsening political conflict between majority and opposition is very widespread because it is fuelled by the traditional conflicts between clans, as well as between the winners and losers in the perhaps overhasty economic reforms.

2.2.2. A number of legal reforms have been brought in since 1990, with a view to guaranteeing the fundamental freedoms and civil rights of Albanian citizens. October 1991 saw the enshrinement of the human rights laid down by the UN, and in May 1992 the Constitutional

Court was set up. In March 1993 the Albanian Parliament approved a major constitutional law on human rights which guarantees religious freedom and allows members of all religious faiths to form organizations and to receive foreign assistance. In three years, freedom of association, which is regulated by provisions on registration and public authorization, has led to the formation of 27 political parties (others have been authorized in recent months), 80 political and non-political associations, and 25 trade union organizations. There is a legal guarantee of freedom of the press, and 330 newspapers and periodicals have been authorized. However, there are serious economic and political obstacles to the development of an independent press (most of the Albanian press is dependant on foreign aid, mainly from the United States, and radio and television are in the hands of the Democratic Party).

The worsening political climate in 1994 led Amnesty International to denounce human rights violations, such as police violence at political demonstrations, the holding 'in camera' of the trials of political leaders, and the arrest of four journalists for their views (later released following pressure from the EU).

These obstacles to the full exercise of fundamental freedoms and human rights has been possible because the huge task of building a democratic legal framework has yet to be completed by the approval of two key legal instruments: the new Constitution and the penal code. The new penal code has now been finally approved after a lengthy parliamentary procedure. Albania's Helsinki Committee broadly endorsed the code, although it made some significant comments on the need to limit the use of capital punishment and to decriminalize homosexuality.

The approval of the new Constitution has been put on hold following rejection of the proposed draft by the referendum of 6 November 1994. The draft drawn up by a cross-party commission chaired by the Head of Government, had not been put to parliament (where a two-thirds majority is required under the constitutional law adopted in 1992). The use of a referendum, rather than a parliamentary procedure, was the main reason for the lack of support from the opposition. Other criticisms focused on the excessive powers which the constitution would have bestowed on the President.

Albanian politicians have called for a rapid settlement of the constitutional question, and a cross-party commission has been instructed to draw up a new draft. However, the problem of the approval procedure — parliamentary, referendum or both — remains unresolved.

2.2.3. The March 1993 law on human rights also guarantees respect for minority rights. The thorniest question concerns the Greek minority in southern Albania, because it is at the root of disputes with Greece.

The Deputy Minister for Foreign Affairs assured the ESC delegation which visited Albania in May 1994 that in the preceding two years the rights of this minority had generally been respected. This was also publicly recognized by the CSCE High Commissioner for national minorities (Albania being a member of the CSCE) and, more recently, by Council of Europe representatives. The Greek minority in southern Albania has its own schools with their own regulations and curricula which are established jointly by the Ministry of Education and the Greek community. At Gjizokaster there is a training institute for Greek-speaking teachers.

The Greek Government's demands for new schools for the minority are at variance with the actual pattern of human settlements in the region, which have been seriously depleted by emigration. Depopulation has meant that many villages in southern Albania now have classes of just four or five children (compared with 50 in the northern regions), so it would make more sense to amalgamate them. The Albanians thus do not understand why in May 1994 the Greek Government used this issue at the EU Council of Ministers as a pretext for blocking balance-of-payments aid. At all events, the Deputy Minister for Foreign Affairs emphasized the political will of the Albanian Government to take further steps to guarantee maximum respect for the rights of the Greek minority. In particular, a law was being drafted which would provide extra funding for the Greek-language schools and also make it possible to set up private schools. This law should finally rectify the fragmentation of primary education and make it possible to continue to receive teaching in Greek after the first eight years of schooling.

2.2.4. What can the EU do to help Albania to complete the final stages of its democratization process and, more important, overcome its present difficulties?

What the EU should not do is threaten to discontinue aid because of the shortcomings still evident in the democratization process. Such negative mechanistic conditions often fail to achieve the expected benefits. Instead they provoke the country into a haughty withdrawal and encourage it to turn its attentions elsewhere. The EU should adopt a new and more positive approach to aid conditions, make the most of the fact that the democratization process is well under way, and channel cooperation in such a way as to help the Albanian Government overcome the shortcomings.

Similarly, one might ask whether the rigorous 'democracy tests' to which the Council of Europe has subjected Albania (thereby delaying its admission and treating it differently from other eastern European countries) are a more effective spur to full democracy than Albanian participation, as a member, in action by the Council of Europe to reinforce democracy and rights in Europe. At all events, the Committee welcomes the fact that authoritative representatives of the Council of Europe have stated that the absence of a constitution must not close the door definitively on Albanian membership.

2.2.5. The EU's positive actions to further democracy in Albania should be conducted on several fronts. In particular: Steps must be taken to prevent economic conditions destabilizing political life and slowing down the democratization process. Hence, even if Albania no longer needs emergency aid, economic aid will continue to play an important role in safeguarding and consolidating democracy.

2.2.6. However, direct and indirect measures to strengthen political democracy and respect for fundamental rights and freedoms are not enough. If the EU wishes to help Albania to achieve real democracy, it cannot content itself with a democratic process which is theoretically flawless but in practice has no real substance. A guarantee is needed that the will of the people will not be thwarted by a possible resurgence of bureaucracy and political and economic oligarchies. The latest moves by President Berisha (notably the recent Government reshuffle designed to 'clear the decks' and improve efficiency) seem to be a step in the right direction. A campaign has been declared against corruption, which is one of the worst ills plaguing Albanian state administration and political life. More importantly, it is a cause of particular public disquiet. The elimination of corruption is vital for the building of a fledgling democracy such as Albania. However, it cannot suffice on its own. Experience elsewhere in Europe has shown that populist hijacking of the judiciary can spawn new forms of authoritarianism.

2.2.7. To counter this risk, the objective must be social and economic democracy.

In western democracies, progress towards social and economic democracy and the legitimation of the democratic state have centred on four key objectives: a more pluralist society; expansion of citizens' rights (beginning with social rights); economic democracy; and the development of a culture based on participation.

The universal resonance of these objectives suggests that they would be desirable for a country such as Albania. However, it must not be forgotten that until just a couple of years ago not only was Albania not a democracy; it had no civil society as such. The four abovementioned objectives must therefore be addressed jointly with the problems of the economic and social transition.

2.2.8. As regards moves towards a more pluralist society, it has already been noted that Albania has made significant strides in terms of fundamental rights, separation of powers, and decentralization of power. The legal basis has also been laid for freedom of the press, a market economy, autonomy and freedom of organization for interest groups, and the use of negotiation as a means of resolving conflicts of interests. These are the key features of a pluralist civil society. However, their practical implementation (which is closely tied to the measures which have been adopted and which are still to be adopted in the transition) has proved somewhat problematic and inconsistent. By helping the Albanian Government and people to find the right answers to these problems, we will enable Albania to make an essential step towards social and economic democracy.

2.3. *The transition to a market economy and economic democracy*

2.3.1. Following IMF guidelines, the Government embarked on a radical liberalization of wholesale and retail prices. Their alignment on world prices is now almost complete. The abruptness of these measures led to a surge in inflation, with an average price rise in 1993 of 85%. While this was cut to 24% in 1994, the social impact was enormous. Wage rises were far lower, and around a quarter of the workforce is now unemployed. There has been a widespread drop in living standards, as well as a significant and inequitable redistribution of incomes. The trade unions believe that some 40% of the population is worse off now than under the former regime.

A recent survey by the Albanian statistical office reveals the widening gap between rich and poor. For this purpose, 'poor' households are defined as having a monthly income of USD 14 or less per person — a sum which frequently almost all goes on food. 'Rich' households are those with an income of over USD 60 (of which 70% goes on food).

2.3.2. The liberalization of foreign trade has undoubtedly allowed the population (or at least part of the population) to acquire a range of consumer goods that would have been unthinkable under the former regime.

Only since June 1994 has the Government begun to introduce a system of customs duties and taxation designed to restore order to the haphazard deregulation process. This had led to the development of a widespread underground economy with easy profits and the emergence of new centres of power.

The introduction of these measures is also helping to dampen demand for certain consumer goods such as cars (some 150,000, most of them secondhand, were imported in just two years).

However, the most damaging effect of this liberalization process has undoubtedly been to squeeze out domestic manufacturing industry. Obsolete technology and organization — some plants date back to the end of the last century — mean that Albanian industry is unable to compete with foreign imports in quality or price terms. So, paradoxically, with a paralysed industrial base and growing demand for foreign consumer goods, Albania manufactures far less than it did in the past.

2.3.3. In its move towards a market economy, Albania has resolutely embraced privatization, but this is a road that has been riddled with problems.

2.3.3.1. The privatization of agriculture which began in 1991 is now almost complete. All the land which belonged to the 'cooperatives' has been handed over to their individual members. Some State undertakings, mainly food businesses, have still to be privatized.

The Albanian Government has laid particular emphasis on the role of land privatization in the relaunch of Albanian agriculture. In 1991 and 1992 agricultural output plummeted, following the collapse of State organization. In 1992 it was 30% down on its 1990 level. However, despite a 15% increase in 1993 and a 10% increase in 1994, farm output in 1994 was still around 10% below the 1990 figure — i.e. the last figure for collectivized agriculture, which was hardly known as a model of efficiency or productivity.

There are a number of reasons why recovery has been so difficult. Firstly, although land ownership has been redistributed, there has been no real reform of the agricultural production and marketing system. Indeed, over-hasty privatization has simply destroyed the previous system. For example, individual appropriation of publicly owned infrastructure such as irrigation facilities has in many cases led to their withdrawal from use.

However, the chief obstacle to an efficient agriculture system is the size of the new family-run farms, which average just 1.4 ha. This means that Albanian farming is to a large extent subsistence farming. Many country people prefer to seek alternative work in towns and cities, fuelling the rural exodus and putting an intolerable strain on cities such as Tirana. Further proof that these small farms are not economically viable is provided by the high rate of under-cultivated land, especially in the fertile lowlands. This has led the Government to introduce a tax of USD 30 per ha, in the hope that it will persuade the owners to use the land productively.

This land privatization process has two objectives. Firstly, to woo the 60% of the population who live in rural areas — the slogan of 'land for the people' never fails. And secondly, to keep these people living and working on the land, even if only in a state of disguised unemployment, so as not to aggravate the country's social problems.

One might ask whether these two objectives could not have been pursued by a different privatization and agrarian reform process that would not have jeopardized the future productivity and efficiency of Albanian agriculture. Now that the damage has been done, all that remains is the mammoth task — which the Government has already embarked on — of slotting farms into a cooperative-based service network.

2.3.3.2. The privatization of small and medium-sized companies is also almost complete. There are some 2,500 private sector businesses, concentrated mainly in the distribution, services, transport and construction sectors.

The main problems are know-how and infrastructure. The national privatization agency, set up in 1992 under a Phare project, cannot meet the private sector's enormous need for technical assistance and training.

2.3.3.3. The privatization of the big state-owned companies (those with over 300 employees) is even more problematic. Most of these companies are relics of the former regime and are technically obsolete. In order to be privatized, they therefore need major restructuring aid. To this end, the Government has set up a business reconstruction fund in conjunction with the World Bank. The chief cause for concern here is that the chosen approach is aimed solely at making individual companies economically viable, without setting up new companies

to improve the vertical and horizontal integration of the various sectors. As well as being sound economic strategy, this would help mop up the 60-70% of the workforce made redundant by the restructuring.

The public sector has already shed 50% of its workforce, and the majority of its former workers are still unemployed. Hence the outlook is certainly not rosy.

Further concern is raised by the over-hasty nature of certain privatizations, which is indicative of a lack of economic strategy and a rather doctrinaire approach. For instance, the sale to foreign investors of public utilities such as water, electricity and telecommunications may swell the State coffers in the short term, but it would not appear to further the public interest.

2.3.3.4. Albania's route to a market economy is failing to secure a parallel transition to economic democracy, and hence to the possibility of involving all the socio-economic partners in the various tiers of economic decision-making.

The Albanian trade unions roundly condemn the lack of economic democracy, first and foremost in the privatizations, which they maintain should enable workers to become shareowners. Instead, only just over half of privatized small and medium-sized firms have been transferred to their workers. The trade unions also complain that they have been denied a say in the framing and implementation of the privatization policies and have been excluded from the privatization commissions. The government has not even agreed to consult management and labour on economic policy issues.

2.3.3.5. It is clear from the above that in Albania, as in other central and eastern European countries, the transition from a centralized to a market economy is being made too abruptly and without proper concern for the economic and social effects. During this transitional stage, the EU should help to bridle exaggerated moves towards free trade and inject a dose of realism to temper the over-dogmatic approach of the IMF.

To give a single example: a more incremental, selective approach to trade liberalization should enable Albania both to restructure established firms and to protect its embryonic industry.

2.4. *The social transition*

2.4.1. The transition from a centralized, 'nanny' State which accords the individual no social responsibilities, to social citizenship — in other words, the exercise of

social rights — has to take account of the attitudes both of the citizen and of the State. In Albania there is virtually no work ethic, and absenteeism is extremely high. Management and labour are mutually distrustful. The concept of hierarchy is an intrinsic part of culture and mentality. Clan interests often take precedence over the general interest. There is still a general expectation that everything will be provided from above. Sometimes, when it becomes clear that not even minimum necessities are provided by that path, people feel authorized to 'get by' by whatever means they can, bypassing the rules of civil society. All this is the result of 45 years of dictatorship. To overcome it, mammoth efforts are needed on three fronts: training, collective bargaining, and social policy.

2.4.2. Albania needs help to adapt its education and training system, in order to fashion a new and different culture based on such values as personal responsibility, personal respect and development, social justice, and participation. Albania also needs help to implement a major programme of investment in its human resources, designed to develop a culture of work and enterprise.

2.4.3. The best way of tackling the domination of the clans is to foster the development within civil society of broadly based, mutual support networks providing pluralist organizations to represent the main social interest groups, starting with employers and trade unions.

2.4.3.1. The emergence of private enterprise is too recent and too disorganized, and the businesses too small, to have allowed the development of influential business associations. Moreover, problems of autonomy (from political parties and from the government) and of representativeness and internal democracy have so far prevented the trade unions from acquiring sufficient influence and full social legitimacy.

2.4.4. However, the main social interest organizations can develop if dispute settlement ceases to be the preserve of the State and becomes a matter for tripartite negotiations and collective bargaining. Above all people, workers must understand that many social rights can only be won through trade union campaigns and collective bargaining. But this collective bargaining must be formally backed by social legislation.

Much remains to be done, although social legislation and labour law have made huge strides in Albania. Above all, the government must overcome its qualms about bargaining and about guaranteeing workers' rights, notably the right to strike.

3. The problems of stabilization and macro-economic adjustment

3.1. At the beginning of 1992, the Albanian economy had virtually collapsed: GNP was 40% down on 1989, inflation stood at 10-15% per month, the lek was heavily devalued, exports non-existent, and agricultural output was plummeting.

Since then, incontrovertible progress has been made towards stabilization. Annual inflation in 1994 was around 25%. GNP grew by 11% in 1993 and around 8% in 1994. The currency is stable.

3.2. Inversion of the inflation trend is mainly due to the measures prescribed by the IMF, which imposed drastic cuts in public spending (41% of GNP in 1992 and 12% in 1993).

However, these measures have caused industrial production to collapse. Agriculture has played a modest part in the return to growth, but the recovery would not have been possible without financial transfers from abroad, principally in the form of aid and remittances from emigrants.

3.3. The trade balance remains in deficit. The Government does not expect the current account deficit for the two year period 1994-1996 to fall below 20% of GNP.

Furthermore, as emigrants tend to settle in the host country, their remittances — currently Albania's main source of revenue — will not be able to fulfil this role indefinitely. Relations between Albania and Greece, the closest EU country to it, are clearly conditioned by the fact that about 350,000 Albanians are currently working illegally in Greece and that their remittances to Albania amounted to USD 900 million in 1993.

Albania is thus set to incur foreign debts, and indeed already has on a large scale. In addition to the USD 480.3 million inherited from the former regime, foreign debt rose by a further USD 638 million over the two year period 1992-1993.

3.4. Despite stabilization, the Albanian economy is thus extremely fragile. The fact that imports take the form of consumer goods rather than capital goods shows that the stage is not yet being set for a reversal of the trend.

3.5. As well as failing to resolve Albania's economic problems, the stabilization and macro-economic adjustment measures have aggravated its social problems.

Unemployment has rocketed. Many of the 400,000 people who have lost their jobs have emigrated.

The World Bank puts the unemployment rate for the first half of 1994 at around 25%. The problem is particularly acute in cities. According to the Albanian Statistics Institute, 60% of people of working age in Tirana are unemployed.

The freezing of the pay of those still in work has further worsened general living conditions.

3.6. In such conditions, foreign aid remains vital, and the EU should take early steps to pay the remainder of the ECU 35 million of balance of payments aid already decided by the Council.

4. Development problems

4.1. Albania does not just need help in the transition from a dictatorship to a democracy, and from a centrally-planned to a market economy. It is also a seriously underdeveloped country.

The effectiveness of foreign aid depends to a large extent on appropriate economic development decisions being taken by the Government.

These decisions currently focus on the key sectors of mining, energy, agriculture, the food industry and tourism. Taken individually, such decisions are unexceptionable. However, the ensuing economic model, geared mainly to exports, is more questionable. Some of these sectors cannot be developed over the short term (suffice it to mention the infrastructure needed for tourism). The development of others will run up against structural limitations such as the fragmented nature of agriculture, or will be stymied by the massive financial resources needed, for instance, for restructuring the mining industry or for infrastructure. In the meantime, Albania will still have to rely on imports for all its day-to-day consumption needs (with the exception of some foodstuffs). Accordingly, rather than the abstract 'export led' system imposed by the IMF, a better solution would be integrated development using local resources not just for export, but above all for the production of domestic consumer goods (without, however, going to the opposite extreme of import substitution).

Clearly, an embryonic industry of this nature will need a period of selective external protection in order to get properly established.

4.2. The skewed nature of an 'export led' trade system would lead Albania into a relationship of dependence on the EU, and in particular on its main supplier country, Italy. Conversely, a more balanced integrated development model could generate mutually beneficial relations with the EU, forging links within sectors (the EU mainly providing knowhow and R&D) rather than between them (raw materials in exchange for consumer goods).

4.3. A further aspect to keep in mind when charting a course for Albanian development is the possibility of economic integration in the Balkans. The serious conflicts besetting the region clearly rule out major progress on this front. However, a far-sighted attitude would suggest that Albania should not only look to the EU with an eye to individual integration, but should also consider the potential for Balkan regional integration and mutually beneficial economic relations with both the EU and the south east Mediterranean countries.

5. Towards a new EU-Albania cooperation policy

5.1. *From technical assistance to development aid*

5.1.1. Over the period 1991-1993, Albania received international aid to the tune of ECU 1,227 million. Of this, 44% took the form of emergency (mainly food) aid, 42% was for economic restructuring, 10% for balance-of-payments aid, and 6% for export credits.

The main donor was the EU, which provided ECU 326 million (27% of the total). The other principal donors were Italy (24%), Turkey (7%), Germany (7%), USA (7%) and Greece (5%). Aid is coordinated by the G24.

Now that the emergency aid period is over, EU support comes mainly from the Phare programme. This covers four assistance areas: sectoral restructuring (agriculture, health, small businesses, tourism), and development of infrastructure (transport, energy, environmental), human resources (Tempus programme), and institutions (public authorities and support for the coordination of aid).

5.1.2. While the Phare assistance is undoubtedly both significant and necessary, Albania's structural backwardness is such that cooperation based principally

on technical assistance falls far short of the country's needs.

Albania needs to plough massive resources into investments, and Phare in its present form is unable to provide these, despite the Copenhagen European Council's decision to increase to 15% the percentage of resources allotted to investment projects.

Albania is not like the other central or eastern European countries. The EU should introduce a fully fledged development aid policy for it.

However, such a policy should not reproduce the ad hoc project-based approach of the World Bank. It must fit into a wider, more coherent framework.

5.1.3. As Albania has facets both of a central/eastern European and a Mediterranean country, the Committee thinks that it should also be included in Mediterranean policy. Cooperation with Albania could thus be inserted into a wider policy of Euro-Mediterranean partnership and joint development. The technical assistance already being provided under Phare could then be supplemented by other cooperation instruments — such as those used in Mediterranean policy — which are more suited to Albania's development needs.

5.2. *Financial assistance*

5.2.1. Financial assistance, set within the wider context described above and also embracing investment, could therefore be targeted at the following:

- Economic restructuring and sectoral development: in addition to the sectors covered by Phare (agriculture, smaller businesses, tourism and health), investment aid should also go to the restructuring of the mining and energy sectors.
- Infrastructure: transport, energy, environmental.
- EU private investment in Albania: creation of a favourable economic environment, joint ventures and aid for risk capital, support for EU investment (for instance by extending the ECIP programme to Albania).
- Job creation: trying out schemes already tested in Europe and the Mediterranean, regional integrated development agencies, SME assistance and promotion centres, extension of SME programmes and networks to Albania.
- Development of human resources: focusing on managerial training for companies and public authorities, and vocational and trade-union training.

- Decentralized cooperation: between decentralized bodies (local communities, universities, research institutes), between economic and social partners, and between the organizations of civil society. A first, immediate step could be to extend the MED programmes to Albania.
- Inter-regional cooperation: building on the possibilities offered by Interreg II and the budget line for cooperation between the EU and the central/eastern European countries, in order to establish interregional cooperation programmes geared to development and spatial planning axes. The aim should be to link the whole Balkan area with the EU, and above all with the EU's Mediterranean regions. As well as infrastructure (such as the Apulia-Durrësi-Fyrom-Bulgaria-Romania corridor, which has already been earmarked ECU 20 million, a boost should be given to projects which promote complementary economic links between EU regions, Albania and other Balkan countries and regions. It is also important to give greater incentive to the Adriatic sea route (Dalmatian Coast — Albania — Igoumenitsa — Corfu) as this is an important corridor for tourist and goods traffic.
- Balkan regional cooperation: above all in environmental matters, but also with a view to economic and market integration. When political conditions permit, regional cooperation projects centred on Albania could form the basis for more extensive multilateral (rather than bilateral) EU-Balkan cooperation.
- Scientific cooperation: extension of EU R&D programmes to Albania.
- Social cooperation: social policies, establishment of a modern industrial relations system, involvement of the socio-economic partners in the implementation of cooperation programmes; EU-Albania social protocol on the establishment of minimum social standards.
- Cooperation on migration: to provide tangible expression of the assistance which the EU can offer Albania by accepting an agreed number of Albanian workers; agreements to regulate and control migrant flows; EU-Albania agreement on social security for migrant workers.
- Cultural cooperation: cultural cooperation, particularly aimed at young people, must be reinforced with specific programmes for young people in Albania on a cross-cultural, interfaith basis, on a Balkan and European basis.
- Cooperation to strengthen democracy and rights: bolstering the Phare-democracy projects to build a programme promoting citizens' rights; consideration of 'democracy and rights' in cooperation programmes in general.

5.3. *Cooperation and dialogue*

5.3.1. Trade cooperation with Albania will clearly have to develop far beyond the present trade and economic cooperation agreement. The long-term aim of a free trade area and customs union will not be feasible without a predetermined time-schedule, selection of the relevant commodity areas and pinpointing of imbalances so as to safeguard the development of Albanian production for the domestic and regional market.

5.3.2. Technical assistance to smooth the transition is already being provided under Phare. It must be consolidated and stepped up. More generally, cooperation should be stepped up in the following areas:

- Industrial cooperation: technology transfer, joint ventures, etc.
- Environmental cooperation: protection of the Mediterranean, clean-up of pollution, integrated management of coastal areas. Formulation and implementation of specific research and development programmes installing European scientific and research teams in Albania.

5.3.3. The reinforcement of political dialogue between the EU and Albania should foster convergence on shared values, membership of a common strategic framework, and the definition of common guidelines for peace and cooperation.

The European Union must step up its links with Albania, and promote the development of political, social and cultural dialogue among young people in Albania in particular and Albanian society at large. More especially, the EU should:

- take steps to reduce the external influences which often undermine internal political stability;
- encourage Albania's full integration into international bodies, so that it can play a full part in all international cooperation programmes covering rights, culture, drugs and organized crime.

5.3.4. The establishment of a social dialogue between the EU and Albania is long overdue. A forum could be set up for regular cooperation between Albanian and EU socio-economic interest groups.

To the same end, the Committee proposes the setting-up of a joint advisory committee of EU and Albanian socio-economic interest groups, with a remit to promote dialogue and cooperation.

6. Towards a new formal framework for EU-Albania relations

6.1. It is clear from the above assessment of the Albanian situation and proposals to develop EU-Albania relations that the present trade and economic cooperation agreement is no longer appropriate.

The time has come to begin preparations for a Europe agreement similar to those concluded with other central and eastern European countries.

The strengthening of the political, economic and cultural links between the EU and Albania must take place at

the pace imposed by the situation in Albania, by the crisis in the region and by the importance of the Adriatic as one of the main gateways to the Mediterranean for northern Europe.

The procedures for association with Albania must be speeded up. All possible means must be used to help Albania satisfy the conditions for its association. To this end, the EU must examine the possibility of drawing up and applying a special programme for economic and social reconstruction in Albania.

Albania's geographical situation, its history and its culture all place it firmly in Europe. A Europe agreement could both reinforce the European identity of the Albanian people (a not insignificant objective when we consider the present cultural and political drift in the Mediterranean), and develop Albania's potential 'European' role in the strife-torn Balkan region.

Done at Brussels, 31 May 1995.

The President
of the Economic and Social Committee
Carlos FERRER

APPENDIX

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.

Point 1.3.4.1

The text should be deleted and replaced with the following sentence:

'The European Union must step up its links with Albania, and promote the development of political, social and cultural dialogue among young people in Albania in particular and Albanian society at large.'

Reasons

The deletion is necessary for the following reasons:

1. In the interests of truth. There is no opposition between the Catholic and Orthodox churches in Albania (cf. the recent Vatican letter 'Orientale Lumen/The Light from the East', and official declarations of the Orthodox Church).
2. The Autocephalous Orthodox Church of Albania does not belong to the Greek church, but comes under the Patriarchate of Constantinople.

3. There is no opposition between Muslims and Christians (Orthodox and Catholic) in Albania.
4. There have been no manifestations of support from Orthodox Albanians for the Orthodox Christians of the former Yugoslavia.

Result of the vote

For: 21, against: 26, abstentions: 9.

Point 2.2.3

Delete all but the first sentence.

Reasons

- a) The phrase 'thorniest question' applied to the existence of minorities in a text by an EU body is inappropriate, to say the least.
- b) The remainder of the point does not add anything substantial to the Opinion, since it ends up with a general vague reference to a law which is being annulled, and later to a law which is being drafted to solve finally the problem of primary education; however, it fails to define the problem of primary education, or the lines along which it is to be solved.
- c) After the most recent positive developments in Greek-Albanian relations, it was decided that education questions would be dealt with by a special sub-committee.

Result of the vote

For: 17, against: 27, abstentions: 10.
