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II

(Preparatory Acts)

ECONOMIC AND SOCIAL COMMITTEE

Opinion on the proposal for a European Parliament and Council Directive amending Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs[1]

(95/C 256/01)

On 8 February 1995 the Council decided to consult the Economic and Social Committee, under Article 100a of the Treaty establishing the European Economic Community, on the above-mentioned 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 6 June 1995. The Rapporteur was Mr Verhaeghe, Co-Rapporteurs were Mr Jaschick and Mr de Knegt.

At its 327th Plenary Session (meeting of 5 July 1995), the Economic and Social Committee unanimously adopted the following Opinion.

The Committee agrees with the Commission proposal, subject to the following considerations and comments:

1. Background

1.1. The framework directive 89/398/EEC[2] ('Foods intended for particular nutritional uses') applies to foods which are defined as:

> 'Foodstuffs which, owing to their special composition or manufacturing process, are clearly distinguishable from foodstuffs for normal consumption, which are suitable for their claimed nutritional purposes and which are marketed in such a way as to indicate such suitability.'

1.2. This encompasses a wide range of very important foods including: infant formulae, follow-on milks, baby foods, slimming foods, foods for athletes, diabetic foods and dietary foods for special medical purposes.

1.3. The directive envisages that some of these categories will have their own specific (vertical) directives while all other foods for particular nutritional uses (referred to forthwith as 'dietetic foods') will be regulated by the general framework (horizontal) directive.

1.4. The directive regulates the products for formulation or nutrient content, labelling and claims made and the marketing of these foods.

1.5. In recent years research institutes, healthcare professionals and industry have been involved in extensive research and development projects on most of the categories of dietetic foods. Consumers, patients, carers and healthcare professionals (doctors, nurses, dietitians, pharmacists, etc.) have all benefited from the innovations which have resulted from this research, especially in the areas of baby milks and foods, slimming foods, foods for athletes and foods for special medical purposes.

1.6. The introduction of new products into the European Union will be regulated by the framework directive and/or the appropriate specific vertical directive.

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[1] OJ No C 389, 31. 12. 1994, p. 21.
[2] OJ No L 186, 30. 6. 1989.

1.7. Serious problems arise for companies which wish to introduce products which are covered by the scope of a special and/or the framework directive but do not comply with the regulatory requirement of the directives. These products may not be marketed in Europe unless the directive(s) is (are) amended.

1.8. These products give great cause for concern. It is likely that many of the innovative products resulting from new research results will fall into this category. The current framework directive does not contain any clause which would allow the regulations on formulation or nutrient content to be quickly brought into line with scientific or technological progress.

2. General comments

2.1. Following the submission to the Commission services of a request for an amendment to a directive, the procedure for amending directive 89/398/EEC consists of three distinct time phases:

Phase 1

The time taken for scientific consideration by the Scientific Committee for Food (SCF).

Phase 2

The time taken by the Commission to prepare a proposal and the time taken by the Standing Committee for Foodstuffs to come to an opinion.

Phase 3

The time taken by the Commission to implement the change(s) to a directive and the time taken by Member States to transpose the changes into their own national law.

2.2. Experience to date has shown that Phase 1 can take over three years, Phase 2 has been shown to take approximately one year and Phase 3 is unlikely to be less than 12 months, *e.g.* a request for the amendment of the directive on infant formula and follow-on formula (91/321) submitted in January 1991 was approved by the Standing Committee for Foodstuffs in February 1995.

2.3. The Committee considers that the consequences of such a laborious and lengthy procedure are unsatisfactory for all parties involved in the consumption, supply and production of dietetic foods.

2.4. The slow introduction of scientific innovations in dietetic foods will delay EU consumers access to new products and significant potential health benefits. It will prevent doctors, dietitians and nurses from having valuable new developments in the nutritional management of many patients, it will slow down the achievement of potential cost benefits, it will lead to a minimising of research and development by EU based institutions and companies and as a result of this will adversely impact on EU employment and export opportunities.

2.5. In order to ensure that EU-consumers and healthcare professionals have early access to new scientific and technological developments in dietetic foods and that European research workers and companies are encouraged to invest in the required research and development expenses, it is necessary to shorten the length of time taken to allow the marketing of new innovative products while ensuring a high level of protection for the consumer.

2.6. It should be noted that the innovations covered by the present proposal do not include the use of ingredients which, because of their novel manufacturing processes, *e.g.* genetic modifications and bio-engineering, will be covered by other EU food legislations directives, *e.g.* the Novel Foods directive which is currently in draft form.

2.7. The Committee therefore welcomes the proposal of the Commission and endorses its objectives of shortening the approval times.

3. Specific comments

3.1. The Committee does, however, hold the view that the proposal only addresses a part of the problem and wishes to make the following additions, comments and recommendations to further improve the positive impact of the proposal.

3.2. The proposal for the authorization of innovative products should be extended to include a temporary authorization for substances for nutritional purposes which are not included in the nutrient list referred to in Article 4.2 of the current framework directive (89/398/EEC).

3.3. The Committee asks the Commission to reduce the length of time which can elapse between submission of a request for approval to market an innovative product and the adoption of the opinion of the Scientific Committee for Food.

3.4. The Committee feels that ways of assisting the Scientific Committee for Food to come to decisions earlier should be found, as for example:

— increase the use of SCF working parties to handle submissions;

— consider using the scientific cooperation procedures of the EU;

— increase the size of the SCF;

— reinforce the existing structure within the Commission which has the responsibility for managing and implementing food legislation.

3.4.1. It may be useful to set a target timescale for this procedure; the Committee would like to recommend 6 months.

3.5. The Commission should ensure that the necessary legal procedures are set in motion to allow amendments to the directive and transposal into national law within the two-year-authorization period.

3.6. In the event of an unfavourable opinion from the Scientific Committee for Food, the Commission should provide an opportunity for the submitting organization to submit arguments to the Commission for the Scientific Committee for Food to re-examine its opinion taking into account the new submission.

3.7. Confidentiality of the details of an innovative product should be maintained during the authorization procedure, since dietetic foods are rarely protected by a patent and there is no licensing system. As a result, competitors could exploit the lengthiness and transparency of the process to incorporate other peoples' innovations into their products.

Done at Brussels, 5 July 1995.

The Chairman

of the Economic and Social Committee

Carlos FERRER

Opinion on:

— **the proposal for a European Parliament and Council Directive amending Directive 92/50/EEC relating to the coordination of procedures for the award of public service contracts, Directive 93/36/EEC coordinating procedures for the award of public supply contracts, and Directive 93/37/EEC concerning the coordination of procedures for the award of public works contracts, and**

— **the proposal for a European Parliament and Council Directive amending Directive 93/38/EEC coordinating the procurement procedures of entities operating in the water, energy, transportation and telecommunication sectors** [1]

(95/C 256/02)

On 8 June 1995 the Council decided to consult the Economic and Social Committee, under Article 100a of the Treaty establishing the European Community, on the above-mentioned proposals.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 7 June 1995. The Rapporteur was Mr Mobbs.

At its 327th Plenary Session (meeting of 5 July 1995), the Economic and Social Committee adopted unanimously the following Opinion.

1. Introduction

1.1. Public procurement has been the subject of a number of Directives with the aim of opening up this very substantial market to competition (the GPA [2] content alone is thought to be of the order of ECU 350 billion each year). Most of the Water, Energy, Transport, and Telecommunication Utilities, sometime known as the 'Excluded Sectors', are now also covered.

1.2. The last of the Directives was adopted in 1993 and all should be effective now. However, it is a fact that not all Member States have transposed the Directives into their national legislation.

1.3. In December 1993, the negotiations on a revision to the 1979 Agreement on Government Procurement (GPA) were concluded. The new Agreement includes supplies, works and services contracts awarded by the State, as well as certain contracts awarded by public authorities at regional and local level. Also included are certain contracts awarded within the water, electricity, urban transport, ports and airports sectors.

1.4. On 15 April 1994, in parallel with the conclusion of the Uruguay GATT Round, the European Union signed the new Agreement with a view to achieving greater liberalization and expansion of world trade.

1.5. As a result, contracting authorities which are subject to both the EC Directives and the Agreement must apply two distinct legal orders to the same contract. Where the provisions of the Agreement are more favourable on certain points than the Community rules, the functioning of the Community regime will be affected.

1.6. The Commission proposes to align the provisions of the EC Directives with those of the Agreement in order to guarantee that EU suppliers, contractors and service providers benefit from a treatment which is as favourable as that reserved for providers from third countries who have signed the Agreement.

2. The Commission proposal

2.1. Public Sector Directives 92/50 (Services), 93/36 (Supplies), and 93/37 (Works) are all subject to identical changes.

— Thresholds are aligned with those of the Agreement.

— Assistance in preparing technical specifications is forbidden where this would have the effect of precluding competition.

— Information must be provided on the advantages of the chosen tender except where there would be legitimate reasons for not disclosing this type of information.

— Member States are requested to forward more statistical information on the contracts to the Commission.

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[1] OJ No C 138, 3. 6. 1995, pp. 1-49.
[2] GPA = Government Procurement Agreement.

— Opportunities for access to public contracts for undertakings, products and services from Member States must be at least as favourable as those provided for by the Agreement for undertakings, products and services from third countries who sign the Agreement.

2.2. Utilities Directive 93/38 changes are mainly the same as for the Directives above. There is in addition:

— Access to qualification systems can take place continuously.

3. General comments

3.1. Council Decision 94/800/EC [1] approved the Government Procurement Agreement (GPA) and this effectively presents the Committee with a *fait accompli*. The Committee's comments are therefore limited in their scope.

3.2. The Committee has consistently supported the Commission in its effort to achieve liberalization of the Public Procurement market within the European Union. The opening up of this once 'reserved market' is considered by the Committee as an essential feature of a true and functioning Single Market.

3.3. The Commission's concern that Community firms should not be disadvantaged vis-à-vis those from third countries signatories of the Agreement is shared by the Committee.

3.4. The Committee acknowledges therefore that there is a need to align the provisions of the existing Directives with those of the Agreement.

3.5. While generally approving the Commission's proposal, the Committee does not agree in certain areas and these are commented upon in detail in Section 4.

3.5.1. The main area of disagreement concerns the changes proposed by the Commission which are not required by the GPA and which do not, in the Committee's view, simplify or improve the functioning of the existing Directives. The Committee understands that the Commission will be reviewing all Public Procurement Directives over the next four years. Thus it would seem sensible to complete the review, which it is assumed will include full consultation, before making any changes which are not legally required by the Agreement and so avoid unnecessary work.

3.6. The Committee doubts if the additional costs or administrative burdens will be offset by the benefits stemming from improved transparency and increased competition in, for example, such areas as (i) proposals for lowering thresholds and (ii) increased statistical reporting.

3.6.1. The Committee is aware that any increase in costs will ultimately have to be borne by consumers or taxpayers.

4. Specific comments

4.1. *Thresholds* [2]

The threshold for Central Government services has been substantially reduced from ECU 200 000 to ECU 128 000 and would align with that for supplies. It is noted that the proposal applies the lower threshold to all services including Research and Development and Part B services, neither of which are covered by the Agreement. A major question is whether the benefit of having a single threshold will outweigh the extra cost burden it represents (see Section 4.6).

4.2. *Information to rejected candidates and tenders* [3]

4.2.1. The proposal for the Utilities and Services Directives requires contracting entities to advise the 'characteristics and relevant advantages of the tender selected' when requested in writing to so do. An issue at stake is whether this additional data will give any additional benefit and whether it is in accordance with best commercial practice. Many organizations actively promote de-briefing of bidders on the grounds that having gone to the risk and expense of bidding, there is a moral obligation to the tenderers and importantly the bidders will benefit from it in readiness for the next time they bid. Best commercial practice suggests that this is often done (and preferred) orally and in a climate of openness. The requirement for written information may well lead to guarded responses and the risk of litigation. Neither of these is desirable whether for contracting entities or suppliers.

[1] OJ No L 336, 23. 12. 1994.

[2] Point 1 of COM(95) 107 — Article 7(1) of Directive 92/50.

[3] Point 3 of COM(95) 107 — Article 12(1) of Directive 92/50.
Point 2 of COM(95) 107 — Article 7(1) of Directive 93/36.
Point 2 of COM(95) 107 — Article 8(1) of Directive 93/37.
Point 18 of COM(95)107 — Article 41(1) of Directive 93/38.

4.2.2. The GPA requires that rejected candidates and tenders be supplied promptly, whenever requested, with relevant information. The Commission's proposal replaces the word 'promptly' with 'within 15 days' in order to align this provision of the Utilities Directive with the other Directives. The Committee considers that the GPA text is clearer and easier to administer.

4.3. *Assistance in the preparation of technical specifications* [1]

The philosophy of this Article is understandable since it would be undesirable for an interested party to influence a specification to an extent that true competition could not take place. However a flexible approach needs to be adopted, as a rigid application of this rule could totally negate any serious technical dialogue between purchasers and suppliers. In specialist markets particularly, those suppliers who have the ability to contribute to the formulation of a specification are also likely to have a commercial interest in any subsequent procurement. This may have the undesirable net effect of either reducing competition for the specific procurement by excluding some potential suppliers or resulting in a reluctance by others to discuss technical issues at the specification stage in case of their exclusion at a later stage.

4.4. *Conditions for submission of tenders* [2]

The GPA provision requires that where it is permissible to submit a tender by telex, telegram or fax, the tender must be confirmed promptly by letter or by the despatch of a signed copy of the telex, telegram or fax. The Commission has gone beyond the requirements of the GPA and the Committee considers that the GPA text is clearer and should be reflected in all the Commission's proposals.

4.5. *Statistical obligations* [3]

The tightening-up of requirements for statistical information by the contracting entities on contract awards must be rejected for at least the private contracting entities in the utilities as these are not subject to the GPA. The GPA does not stipulate any expansion in the statistical information over and above that which is already available to the Commission through the publication of contract award notices. The Committee also notes that it would appear that parties subject to Directive 92/50/EEC are required to provide statistics on Annex 1B services and R&D services where these are above the threshold. This additional burden would seem to do little to improve the effectiveness of the regime and should be dropped.

4.6. *Commission extension into areas not covered by WTO/GPA*

There should not be any extension to include telecommunications, research and development services, non-urban railway transportation, upstream oil and gas industries, since it is not a requirement of the GPA.

Amending the EC Utilities Directive beyond Government owned enterprises within the meaning of the GPA in relation to utilities whose activities are based 'on sole or special rights' should be opposed. On one hand the EC Directive applies to all European utilities irrelevant of whether public or privately owned whereas on the other the GPA covers only those in government ownership. This by definition does not require an equal degree of market opening and there is no justification for it.

4.7. *Contract awards without tendering procedure in case of additional contracts of Utilities Directive (93/38)* [4]

The GPA provisions apply only to additional construction services, for additional works or services not included in the project initially awarded or in the

(1) Point 5 of COM(95) 107 — Article 14(7) of Directive 92/50.
Point 3 of COM(95) 107 — Article 8(7) of Directive 93/36.
Point 3 of COM(95) 107 — Article 10(7) of Directive 93/37.
Point 5 of COM(95) 107 — Article 18(9) of Directive 93/38.

(2) Point 8 of COM(95) 107 — Article 23 of Directive 92/50.
Point 6 of COM(95) 107 — Article 15 of Directive 93/36.
Point 6 of COM(95) 107 — Article 18 of Directive 93/37.
Point 30 of COM(95) 107 — Article 28(6) of Directive 93/38.

(3) Point 10 of COM(95) 107 — Article 39 of Directive 92/50.
Point 8 of COM(95) 107 — Article 31 of Directive 93/36.
Point 3 of COM(95) 107 — Article 34 of Directive 93/37.
Point 19 of COM(95) 107 — Article 42 of Directive 93/38.

(4) Point 6 of COM(95) 107 — Article 30(9) of Directive 93/38.

contract first concluded but which have, through unforeseen circumstances, become necessary for the execution of the contract.

However, the Commission's proposal applies the 50% maximum limit to both additional works and additional services. The Committee finds this unacceptable, since it is not required by the GPA and is not in line with practical requirements.

4.8. *Changes to annexes* [1]

4.8.1. Annex XIII — I and II — refers to the Notice of Existence of a Qualification System. The current Directive includes a simple clear format for the publication of qualification notices. However the Commission has complicated issues by creating two versions. One is as a call for competition and the other not as a call for competition. In the case of the first, there are incorporated additional fields currently required by conventional contract notices but which are inappropriate for qualification systems. The Committee considers the current Annexes should remain unchanged.

4.8.2. The Commission's proposal requires in Article 24(2) that the contract award notice include the price paid as a mandatory disclosure (point I.11 of Annex XV). This is currently optional and, in practice, may be withheld on grounds of commercial sensitivity, and remains so under Article 18(4) of the GPA. The Committee thinks that the GPA provision should have been retained in the Commission's proposal.

5. **Conclusions**

5.1. The Committee has commented only on the proposed changes to the existing Directives, avoiding deliberately to analyze the Directives themselves.

5.2. The Committee is aware that the Directives are shortly to be the subject of a four year review and it will give its Opinion then in the light of lessons learned from the application of the Directives and on the basis of prior consultation. The reviews should take into due consideration the social aspects involved in the application of these Directives.

5.3. The Committee would like to take this opportunity to stress the importance to the functioning of the Single Market of the urgent transposition into national law in all Member States of the Public Procurement Directives.

[1] Point 22 of COM(95) 107 — Article 30(9) of Directive 93/38.
Point 22 of COM(95) 107 — Article 24(1) of Directive 93/38.

Done at Brussels, 5 July 1995.

The Chairman
of the Economic and Social Committee
Carlos FERRER

Opinion on Plain Language

(95/C 256/03)

The Economic and Social Committee decided on 29 March 1995 in accordance with Article 23(3) of its Rules of Procedure, to draw up an Opinion on Plain Language.

The Section for Social, Family, Educational and Cultural Affairs, which was responsible for the preparatory work, adopted its Opinion on 15 June 1995. The Rapporteur was Mrs Guillaume.

At its 327th Plenary Session (meeting of 5 July 1995) the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction

1.1. The debate over the Maastricht Treaty showed that the people of Europe no longer unreservedly accept the EU.

1.1.1. Effective communication is essential if Europe is to match people's aspirations. This includes avoidance of jargon. Although DG X has overall responsibility, the College of Commissioners is responsible for the definition of political priorities in information and communication policy; a steering committee of senior representatives from all DG's ensures an integrated approach to information strategy.

1.2. Reorganization is needed. The Commission's position needs to be expressed clearly and quickly. Plain language is essential to a more open Community.

2. Comments

2.1. *Would it be better to use plain language in official documents?*

2.1.1. People would understand official documents more easily. Translation would be easier, quicker and cheaper. Above all, hostility to European ideals and principles would be reduced because the people of Europe would feel more at ease with European institutions, rules and the people in charge of European matters. European documents would become an influence towards harmony and cohesion in Europe. In this context, differentiation can be made between 'legal' and 'political' texts. The former may be complex not nonetheless require precise definition; the latter have a message that must be clear to every citizen. The Maastricht 'Treaty on European Union' failed on both counts. It is vital that any future revision to the Treaty be comprehensible legally and politically.

2.2. *Is it possible for official documents to be written in plain language?*

2.2.1. It is. But it is difficult for officials and others to shed the habit of using jargon, legal language and insensitive terminology (*e.g.* the misuse of the word 'migrants'). A long tradition of using official language, together with a powerful urge to conform and follow precedent, has created an instinct to use long words and long sentences. It is not necessary to do so. Examples of how official documents could be written in plain language are annexed to this Opinion.

2.3. *Is it official policy to use plain language as much as possible?*

2.3.1. It is. Jacques Delors, then President of the Commission, spoke to the European Parliament on 10 June 1992 and said: '... we must be inventors of simplicity which must lead to a collective examination of conscience, firstly within the Commission, for whom the pen must be lighter and the texts plainer....; the quest for compromise at Council level results in texts which are too complicated, even incomprehensible'.

2.3.2. The Declaration of the Birmingham Summit of 16 October 1992 said: 'We want Community legislation to become simpler and clearer'.

2.3.3. On 8 June 1993 the Council passed a resolution on the quality of drafting of Community legislation, with 'the general objective of making Community legislation more accessible'. However, the Council did not succeed in drafting that resolution in plain language. Appendix A to this report is the text of the Council resolution of 8 June 1993 as it was passed. Appendix B is the text of the resolution redrafted using plain language.

2.4. The Committee can provide many examples of how plain language might be used in EU texts. The

following example is a Council definition of 'financial institution':

2.4.1. 'Financial institution' means an undertaking other than a credit institution whose principal activity is to carry out one or more of the operations included in numbers 2 to 12 and number 14 of the list annexed to Directive 89/646/EEC, or an insurance company duly authorized in accordance with Directive 79/267/EEC, as last amended by Directive 90/619/EEC, in so far as it carries out activities covered by that Directive; this definition includes branches located in the Community of financial institutions whose head offices are outside the Community [1].

[1] OJ No L 166/79 — 91/308/EEC — 28. 6. 1991.

Done at Brussels, 5 July 1995.

Translation

2.4.2. If not 'armed' with the other three Directives referred to, the ordinary citizen is completely unable to understand the above definition.

3. Conclusion

3.1. The Commission should take positive steps to do what the 1993 Council resolution has said ought to be done. The Committee has shown that it is official policy to use plain language. It has shown that it is possible to use plain language in official documents and in legislation. All that is now required is that it should actually happen. The people of Europe are yearning for clear and simple language in European documents. Let us give it to them.

The Chairman

of the Economic and Social Committee

Carlos FERRER

APPENDIX A

to the opinion of the Economic and Social Committee

COUNCIL

COUNCIL RESOLUTION

of 8 June 1993

on the quality of drafting of Community legislation

(93/C 166/01)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaties establishing the European Coal and Steel Community, the European Economic Community and the European Atomic Energy Community,

Having regard to the conclusions of the Presidency of the European Council meeting in Edinburgh on 11 and 12 December 1992 to the effect that practical steps should be taken to make Community legislation clearer and simpler,

Whereas guidelines should be adopted containing criteria against which the quality of drafting of Community legislation would have to be checked,

Whereas although such guidelines would be neither binding nor exhaustive they would aim to make Community legislation as clear, simple, concise and understandable as possible,

Whereas these guidelines are intended to serve as a reference for all bodies involved in the process of drawing up acts for the Council, not only in the Council itself but also in the Permanent Representatives Committee and particularly in the working parties; whereas the Council Legal Service is asked to use these guidelines to formulate drafting suggestions for the attention of the Council and its subsidiary bodies,

HAS ADOPTED THIS RESOLUTION:

The general objective of making Community legislation more accessible should be pursued, not only by making systematic use of consolidation but also by implementing the following guidelines as criteria against which Council texts should be checked as they are drafted:

1. the wording of the act should be clear, simple, concise and unambiguous; unnecessary abbreviations, 'Community jargon' and excessively long sentences should be avoided;

2. imprecise references to other texts should be avoided as should too many cross-references which make the text difficult to understand;

3. the various provisions of the acts should be consistent with each other; the same term should be used throughout to express a given concept;

4. the rights and obligations of those to whom the act is to apply should be clearly defined;

5. the act should be laid out according to the standard structure (chapters, sections, articles, paragraphs);

6. the preamble should justify the enacting provisions in simple terms;

7. provisions without legislative character should be avoided (wishes, political statements);

8. inconsistency with existing legislation should be avoided as should pointless repetition of existing provisions. Any amendment, extension or repeal of an act should be clearly set out;

9. an act amending an earlier act should not contain autonomous substantive provisions but only provisions to be directly incorporated into the act to be amended;

10. the date of entry into force of the act and any transitional provisions which might be necessary should be clearly stated.

APPENDIX B

to the opinion of the Economic and Social Committee

'Translation' into plain language

THE COUNCIL OF THE EUROPEAN COMMUNITIES

COUNCIL RESOLUTION

of 8 June 1993

on the quality of drafting of Community legislation

(93/C 166/01)

THE COUNCIL RESOLVES:

1. that Community law be drafted so that, as far as possible, it can be understood by everyone;

2. that Community law should be restated systematically and often, so that all the law on one subject be brought together;

3. that the Drafting Guidelines set out below should be used for drafting Community texts; and

4. that Community texts should always be checked to see that they follow the guidelines.

DRAFTING GUIDELINES:

1. the wording should be clear and simple. Jargon should not be used. Words, sentences and paragraphs should be short;

2. references should be precise. Cross-references should only be used where necessary;

3. laws should be consistent: the same term should be used to express the same idea, both within a new law and in keeping with existing laws;

4.

5. a standard way of laying out texts should be used;

6.

7. laws should be used only for making law. Wishes and political statements should be left out, but objectives may be included;

8.

9. where possible, amendment of an existing law should be done by providing a complete new text, not by providing a text which has to be read side by side with an old one;

10. the date when a new law comes into force should be clearly stated in it.

Opinion on:

— **the proposal for a Decision of the European Parliament and of the Council adapting Decision No 1110/94/EC concerning the fourth framework programme of the European Community activities in the field of research and technological development and demonstration (1994 to 1998) following the accession to the European Union of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden, and**

— **the proposal for a Council Decision adapting Decision 94/268/Euratom concerning a framework programme of Community activities in the field of research and training for the European Atomic Energy Community (1994 to 1998) following the accession to the European Union of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden** [1]

(95/C 256/04)

On 2 June 1995 the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the above-mentioned proposals.

The Section for Energy, Nuclear Questions and Research, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 22 June 1995. The Rapporteur, working without study group, was Mr von der Decken.

At its 327th Plenary Session (meeting of 5 July 1995), the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction

1.1. The fourth RTD framework programme (1994-1998) was finally adopted on 26 April 1994 with a total initial budget of ECU 12 300 million. It took the form of two Decisions: the first concerns the fourth European Community framework programme for research, technological development and demonstration activities (1994-1998) [2], the second the framework programme for Community research and training activities for the European Atomic Energy Community (1994-1998) [3]. The Committee gave its views on the Commission's proposals for the fourth framework programme on 25 November 1993 [4].

1.2. In accordance with Article 130g of the Treaty establishing the European Community the framework programme provides for four areas of activity:

— implementation of research, technological development and demonstration programmes, by promoting cooperation with and between undertakings, research centres and universities;

— promotion of cooperation in the field of Community research, technological development and demonstration with third countries and international organizations;

— dissemination and optimization of the results of activities in Community research, technological development and demonstration;

— stimulation of the training and mobility of researchers in the Community.

1.3. In accordance with Article 130i(3) of the aforementioned Treaty these activities are to be implemented through specific programmes. Thus between 27 July and 8 December 1994 twenty specific programmes (on which the Committee was also consulted) were adopted under the framework programme (1994-1998) [5].

1.4. The increase in the EU's financial resources resulting from the accession of Austria, Finland and Sweden has enabled the budgetary authorities to decide on a 7% annual increase in the budget for the EU's internal policies, including RTD policy.

1.5. Article 130i(2) of the Treaty states that 'The framework programme shall be adapted or supplemented as the situation changes'. Hence the purpose of the draft Decisions under consideration is to adjust the appropriations allocated to the implementation of the fourth framework programme in line with this budget increase, taking into account also the proportional increase in R&D expenditure resulting from the participation of the three new Member States in the implementation of the specific programmes.

(1) OJ No C 142, 8. 6. 1995, pp. 16-18.
(2) OJ No L 126, 18. 5. 1994, p. 1.
(3) OJ No L 115, 6. 5. 1994, p. 31.
(4) OJ No C 34, 2. 2. 1994, p. 90.
(5) OJ No L 222, 26. 8. 1994; OJ No L 331, 21. 12. 1994; OJ No L 334, 22. 12. 1994; OJ No L 361, 31. 12. 1994.

1.6. Specifically, the total amount of these appropriations will rise by 7%, from ECU 12 300 million to 13 161 million, of which 11 819 million instead of 11 046 million for the EC framework programme and 1 342 million instead of 1 254 million for the Euratom framework programme.

2. General comments

2.1. The Committee cannot but approve these proposals which merely implement, in the RTD sector, decisions already taken under the budgetary procedure.

2.2. The Committee notes that the proposed increase corresponds to the financial contribution which Austria, Finland and Sweden would have had to make to the Community research budget to participate in the EC framework programme as EEA members and in no way implies an increase in the overall research effort.

2.3. This adjustment is, however, all the more necessary as the Committee had expressed its keen disappointment over the — in its view wholly inadequate — budget initially allocated by the Council for the implementation of the framework programme (1994-1998).

2.4. Secondly, the Committee notes that because this increase is across the board, it does not affect research priorities established when the framework programme was adopted or the balance between the various specific programmes. Indeed this was never the Commission's intention.

2.4.1. Consequently it stresses that these proposals must not serve as a pretext for reopening a debate on this matter. Such a debate would undoubtedly delay their adoption and this could only be prejudicial to the implementation of the specific programmes and the continuity of the Community research effort.

2.5. In this connection the Committee would point out that under the Decisions on the framework programme (1994-1998), a possible extra ECU 700 million may be granted by 30 June 1996 at the latest for carrying out the framework programme, in the light of a review of its implementation to date.

2.5.1. These Decisions will be the subject of separate proposals on which the Committee will be consulted in due course. The present Opinion must in no way prejudge that future Opinion, especially as the Commission has already announced its intention of using the opportunity provided by these proposals to make some adjustments to the Community research effort, to redefine certain objectives and hence to review research priorities and procedures.

Done at Brussels, 5 July 1995.

The Chairman

of the Economic and Social Committee

Carlos FERRER

Opinion on the proposal for a European Parliament and Council Directive to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained [1]

(95/C 256/05)

On 29 May 1995 the Council decided to consult the Economic and Social Committee, under Article 49 of the Treaty establishing the European Community, on the above-mentioned 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 15 June 1995. The Rapporteur was Mr Cavaleiro Brandão.

At its 327th Plenary Session (meeting of 5 July 1995), the Economic and Social Committee adopted the following Opinion by a majority vote with three abstentions.

1. Introduction

There have already been two Community Directives dealing with the practice of the profession of lawyer at European level.

1.1. Directive 77/249/EEC was designed to facilitate lawyers' freedom to provide services. By failing to go any further, the Directive expressly disregarded the right of establishment.

Broadly speaking, this Directive establishes the principle of mutual recognition of licences to practise. Thus it allows a lawyer established in one Member State to give advice and provide services in another Member State.

However, the lawyer's professional services may only be rendered under the home-country professional title, and not under any host-country professional title.

In addition, when representing and defending a client before the courts, a lawyer may be obliged to work in conjunction with a local lawyer. This is a requirement in most Member States.

1.2. Directive 89/48/EEC established a general system for the recognition of higher educational diplomas awarded on completion of professional education and training of at least three years' duration. It also laid down a number of specific rules for lawyers.

Under this Directive, a lawyer holding a diploma required in one Member State in order to gain admission to or practise the legal profession may, before being admitted to or allowed to practise the profession in another Member State, be required, at the discretion of that Member State, to complete an adaptation period or sit an aptitude test. With the exception of Denmark, which requires an adaptation period only, all Member States have opted for the aptitude test.

The Directive therefore constitutes the legal framework henceforth guaranteeing the right to practise the profession on a permanent basis in any Member State other than the one where the qualification was obtained.

2. General comments

2.1. For some time, the rules laid down in these two Directives were deemed by many to be adequate as far as the legal profession was concerned.

However, after years spent discussing the matter in great detail, the CCBE (Consultative Committee of the Bars and Law Societies of the European Community), which represents European lawyers, adopted a draft set of rules at its October 1992 Plenary Session in Lisbon by a large majority. It is this draft which forms the basis of the present Commission initiative.

2.2. It was felt that it would be useful to do more than just lay down some general and formal rules governing recognition of lawyers' diplomas, since this objective had already been achieved by means of Directive 89/48/EEC.

It was agreed that the following steps would be valuable:

— closer regulation of arrangements for the professional integration of migrant lawyers in the host country, making the process easier and more flexible;

— provision and legislation at European level for joint practice of the profession of lawyer;

— establishment of the principles of professional conduct and disciplinary proceedings which apply.

2.3. The Committee endorses these goals and agrees in principle with the proposal as a whole, subject to the reservations expressed below.

[1] OJ No C 128, 24. 5. 1995, p. 6.

The Committee would nevertheless point out that the Commission proposal differs in essential points from the CCBE proposal in that it

a) sets a time limit on the right of establishment under the home-country professional title, and

b) generally dispenses with an aptitude test for lawyers wishing to be fully integrated in the host Member State [Article 10(1)].

2.4. The Committee wholly shares the concerns expressed in the Sutherland Report regarding the whole system of justice in the EU.

On the one hand, it is true that completion of the internal market involves an ever closer relationship between the legal systems in the various Member States, and that individuals and companies increasingly require legal back-up which is better informed and coordinated transnationally, albeit still within the European Union.

On the other hand, there is a matter which is even more challenging: it is clear that it will only be possible to set up a better integrated and increasingly harmonized European legal system if measures are taken to stimulate and facilitate the movement of the lawyers who are at the heart of this process of mutual familiarization and gradual alignment.

The proposed Directive, which aims to stimulate and facilitate genuine freedom of movement and establishment for lawyers, may prove to be a significant step forward on the road to these objectives.

3. **Specific comments**

3.1. Articles 2 to 9 govern the right to practise and the practice of the profession by migrant lawyers who have relocated to a host Member State on a temporary basis for a period of five years under their home-country professional title.

3.2. According to these Articles, during a transition period of not more than five years, migrant lawyers are to be progressively integrated into the system of professional rules and organization of the host country until, at the end of this period, their full integration is recognized and formally confirmed.

To this end, lawyers are to register with the competent authority in the host country and to practise under their home-country professional title, in accordance with the rules of professional conduct of the host country and subject to the rules of procedure, penalties and remedies provided for in that country. The Committee agrees with these principles, but sees no justification for the five-year time limit.

3.3. Article 5 permits migrant lawyers to give advice not only on the law of their home Member State and on international and Community law, but also on the law of the host Member State.

3.4. As stated above, the Committee endorses the aim of guaranteeing professional integration in the host country for migrant lawyers, especially if this integration allows them to acquire the technical, legal and professional knowledge required to practise in a responsible and competent manner.

3.5. On this point, the Committee has some reservations about allowing migrant lawyers to give advice in their professional capacity on the law of a host country from the very beginning of their time in that country, *i.e.* without necessarily having received any in-service training or attending additional training courses, or without their competence in that area having been assessed in any way beforehand.

This being the case, there is clearly insufficient protection of consumers' rights.

3.6. Article 6 governs the rules of professional conduct applicable, largely on the basis that the rules of the host country take precedence.

The Committee feels that it would be useful to include a specific reference to the Code of Conduct approved by the CCBE and already adopted by the Bar Associations in the various Member States, inasmuch as it is a Code with a European dimension which seeks to bring about a healthy degree of integration and which has been freely and spontaneously self-imposed by the professional organizations concerned.

4. Article 10 deals with the essential matter of diplomas, laying down as it does the terms under which a migrant lawyer's integration into the host country is effected in practical terms and formally finalized.

4.1. Thus, Article 10(1) primarily grants admission to the profession of lawyer in the host Member State, exempting migrants from any aptitude test which may be required under Directive 89/48/EEC provided that they prove that they have effectively pursued, for an unbroken period of at least three years, an activity involving the law of the host state, including Community law.

However, the text of the proposal contains two expressions, which, being ambiguous, will cause difficulties in its interpretation.

The expression 'effective pursuit for an unbroken period', with the definition given in the second paragraph of Article 10(1) which the Commission has taken from the Van de Bijl judgement (Case 130/88), is not clear enough to provide the precise and strict interpretation necessary for its application in practice.

How to interpret the expression 'law of the host Member State including Community law' is also open to doubt. If migrant lawyers have only practised the law of the host country, and not Community law, will they be prevented from applying for admission in the way set out here? On the other hand, this expression could mean that, for the purposes of this ruling, Community law is considered to be part of ('included') in the law of the host country; if so, will it be enough for lawyers to have practised Community law effectively for an unbroken period to acquire the professional title of the host country?

The Committee feels that both these expressions should be reworded and made clearer.

4.2. Article 10(2) stipulates that, irrespective of any exemption from the aptitude test required under the 1989 Directive, migrant lawyers may be required to take an aptitude test limited to the law of procedure and the rules of professional conduct of the host Member State.

The Committee stresses how important it is to have a knowledge of the language in general, and of the legal language in particular, in order to practise law in a responsible and competent manner. It therefore feels that this should be a specific factor in the procedure for integrating migrant lawyers.

The Committee accepts that, instead of the limited aptitude test specified in Article 10(2) of the proposal, another equivalent method of assessing the integration process and its results might be considered adequate and more appropriate.

4.3. Article 10(3) reiterates that, in any event, a lawyer practising under his home-country professional title, may apply to have his diploma recognized pursuant to Directive 89/48/EEC, that is, by taking an aptitude test.

However, it states that this may (only?) be done 'during the five-year period referred to in Article 2'.

This gives rise to a good deal of confusion and uncertainty.

4.3.1. Firstly, it appears that a lawyer has the right to apply for recognition of a diploma under Directive 89/48/EEC at any time, provided that the applicant sits and passes the required aptitude test, which is set internally by each Member State. It does not seem that there could, or much less should, be any time limit on doing this and it is unclear what the connection is between exercising this right, which derives from a general and abstract rule, and the five-year transition period which the proposed Directive has imposed for other purposes.

4.3.2. Secondly, it is not clear what the consequences would be if migrant lawyers (practising temporarily under the home-country professional title in the host state) were to take no action during the five-year transition period.

In other words, the proposal does not specify what happens, or should happen, to lawyers who, at the end of the five-year transition period, have neither applied for integration in the host country under the terms of Article 10(1) nor sought recognition for their diplomas pursuant to the 1989 Directive.

The Committee points out the need to clarify this point; it feels sure that it is not just an oversight, but an actual failure to adopt a political or substantive option.

4.3.3. In short, the following principles should be clearly set out with no time constraints imposed:

— the freedom to practise under the home-country professional title (in accordance with the rules laid down in Articles 3 to 9);

— the freedom to apply to sit the aptitude test specified in Directive 89/48/EEC.

4.4. Article 10(6) acknowledges and enshrines what appears to be an undisputed right of migrant lawyers, that is, the right to be allowed to continue using their home-country professional title alongside the professional title used in the host Member State.

While being wholly in agreement with this principle, the Committee would raise another, particularly relevant point in this connection.

The Committee feels that indicating the home-country title is not just the right of a migrant lawyer, but by the same token it is actually his duty.

The consumer of legal services, the lawyer's client or any of the parties involved in the network of professional relations emanating from a given situation is fully entitled to know that the lawyer in question, although a legitimate holder of the professional title of the host country, began his professional career in another Member State as well as completing his basic legal studies there.

The need for transparency and, in fact, a lawyer's strict duty of loyalty towards the client and the other parties require that, in addition to use of the professional title acquired at a later stage in the host state, the home-country professional title should also be displayed, as this is the basis on which the second professional title is acquired.

4.5. Article 11 contains new legislation governing the transnational aspects of joint practice within the European Union.

Given the innovative nature of these rules and the considerable diversity of existing arrangements for joint practice in the various Member States, it is very likely that practical considerations will necessitate a reworking of the proposed rules in the not too distant future.

However, the Committee supports the proposal in principle, in the belief that it is important to move in the direction outlined by the Commission and that, under present circumstances, it would be difficult to do any better.

4.6. The Committee does have some reservations about Article 11(5) even though it is aware that this point is not substantially different from the CCBE proposal.

As it stands, this ruling expressly allows for the existence of so-called MDPs (multidisciplinary partnerships) incorporating lawyers. This kind of partnership is only permitted under law in two Member States (Germany and Holland) and banned in most other Member States.

Many detailed arguments have emerged from the comprehensive debate which lawyers have been conducting on this issue, chiefly in connection with rules of professional conduct.

This is not the place to reiterate these arguments, but the Committee feels it would be inappropriate for such a complex problem to be sidestepped and fudged using a piece of legislation with a completely different rationale and objective which are not directly connected with the problem. It would therefore be preferable if the Directive avoided it.

Done at Brussels, 5 July 1995.

The President

of the Economic and Social Committee

Carlos FERRER

Opinion on the proposal for a European Parliament and Council Directive relating to the side-impact resistance of motor vehicles and amending Directive 70/156/EEC [1]

(95/C 256/06)

On 14 March 1995 the Council decided to consult the Economic and Social Committee, under Article 100a of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 7 June 1995. The Rapporteur was Mr Bagliano.

At its 327th Plenary Session (meeting of 5 July 1995), the Economic and Social Committee adopted the following Opinion by a majority with six votes against and thirteen abstentions.

1. Introduction

1.1. The proposal for a Directive on the side-impact resistance of motor vehicles concerns the Community vehicle type approval enshrined in the 1970 framework Directive (70/156/EEC) [2]. The latter Directive did not, however, provide for side-impact safety tests or measures.

1.2. The aim of the current proposal is to make up for this deficiency and supplement the framework Directive in the light of the most up-to-date research.

2. The importance of scientific and technical progress

The Commission took into account the conclusions of Working Group 29 of the United Nations Economic Commission for Europe, and those reached by the group of experts on passive safety (GRSP). The European Experimental Vehicles Committee (EEVC) also contributed with in-depth research and full-scale tests.

3. The Commission 'proposal' for a Directive

3.1. The proposal introduces a procedure for testing the side impact resistance of motor vehicles. The aims of the Directive are to be commended, since they tie in with a set of measures to reduce the number of people killed or seriously injured in side-impact road accidents.

3.2. The test involves crashing a trolley-mounted mobile barrier at a speed of 50 km/h into the side of the car. The aim is to assess, by means of biomechanical criteria, the extent of any injuries to the passenger. It involves the use of an instrumentation-equipped dummy (*i.e.* equipped with suitable electro-mechanical instruments) seated inside the car.

3.3. The 'proposal' consists of a legislative section, with the relevant application dates, and a second, technical section (Appendix I, II), which describes the type of test and the apparatus to be used.

4. Two enforcement stages are envisaged.

4.1. In the first stage, a deformable mobile barrier, with a ground clearance of 260 mm must be used:

— as of 1 October 1995 for the approval of new vehicle types;

— as of 1 October 2000 for all new vehicles.

4.2. A second stage uses the same test, but with a ground clearance of 300 mm.

Application dates are as follows:

— as of 1 October 2001 for all new vehicle types;

— as of 1 October 2004 for all new vehicles, subject to the Commission report to the European Parliament and the Council — due to be submitted by 1 October 2002 — on the implementation of the Directive and on the ability of industry to respect the deadline.

Car manufacturers may bring forward application of the second stage to 1 January 1998.

5. Comments

5.1. The proposal is particularly welcome since it addresses one of the serious loopholes in the safety measures designed to reduce the number of road accident victims.

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[1] OJ No C 396, 31. 12. 1994, p. 1.
[2] OJ No L 42, 23. 2. 1970.

It is thus all the more urgent.

5.2. The proposal takes account of safety research findings and trends in Europe and the United States.

It differs, however, from US test requirements (trajectory, speed, dummy, ground clearance), in particular because of the distinct vehicle characteristics in the two areas.

The Economic and Social Committee notes the complexity of the issue, and the considerable effort made by the Commission since 1985, when the ERGA (Evolution of Regulations-Global Approach-Passive Safety) *ad hoc* group was set up.

5.3. The Commission proposal sets mobile barrier ground clearance — which constitutes the crucial part of the test — at 260 mm for the first stage, and 300 mm for the second.

Given that the ERGA group recommended a barrier clearance of 300 mm in 1989, the Economic and Social Committee regrets that the Commission's choice for the first stage has not been checked or backed up by similar or equivalent specific tests.

The Committee also notes that the Commission admits that there are no experimental research findings to confirm the need for a ground clearance of 260 mm, as envisaged by the proposal for the first stage.

5.4. The Commission therefore felt it necessary to take into account the discussions held and decisions taken in Geneva by Working Group 29 on the ECE/UN regulation. On the basis of these decisions, Member States reached a common stance on ground clearance (260 mm).

The measure was also justified by the pressing need to take at least a significant step forward (first stage 260 mm) immediately, rather than draw out the negotiations and the time needed for the proposal to pass through the Council and the Parliament, as well as the fact that there were no differences in aim or methodology between the two stages which might produce anomalous results. The second stage is, if anything, an improvement on the first, but does not contradict it in any way. What changes between the two stages is a system calibration parameter (the barrier height), but the test method is identical.

The Economic and Social Committee can merely note the situation, which — it must be said — the Commission has already described with commendable clarity; nevertheless, the Committee does not intend to hide its concern about this matter.

5.5. Given the Commission's genuine efforts to address this important issue, the Economic and Social Committee would recommend that the undoubted linkage between frontal impact and side impact be included amongst the factors involved when assessing the effects of impact.

Research and tests in this area would further our understanding of the situation and provide a more detailed, realistic picture of vehicle body impact resistance.

The Commission report — to be presented to the Council and the Parliament by 1 October 2002 — might take these suggestions into account.

6. Conclusions

6.1. The Economic and Social Committee endorses the aims of the proposal. It feels, however, that every effort must still be made to improve and step up research and tests, in an attempt to produce more compatible assessments.

In any event, the Committee would emphasize the urgent need for efficient measures in this area, in which, according to current knowledge and experience, the Commission has set a ground clearance of 300 mm.

6.2. If, however, the Commission intends to take account of the highly critical comments in point 5.3 above and consider scrapping the first stage, the Committee strongly recommends that the application date for the side-impact safety test (mobile barrier with a ground clearance of 300 mm) should be:

— not before 1 October 1998 for the approval of new vehicle types; and

— not before 1 October 2003 for all new vehicles.

6.3. The Committee is fully aware of the importance of the test requirements concerning vehicle resistance to collisions.

These requirements relate directly to the safety of vehicles and, therefore, to users' lives.

The Committee therefore intends to consider these problems further and to participate in discussions and

socio-economic assessments of the initial application of the standards which are to be adopted as soon as possible.

Consequently, the Economic and Social Committee would ask to be provided with a copy of the Report to be submitted by the Commission by 1 October 2002.

Done at Brussels, 5 July 1995.

The President
of the Economic and Social Committee
Carlos FERRER

APPENDIX

to the opinion of the Economic and Social Committee

The following amendment, which obtained at least a quarter of the votes cast, was rejected during the discussion:

Amendment tabled by Mr Moreland

Point 6

Change conclusion as follows:

'The Economic and Social Committee endorses the aim of the draft Directive, but acknowledging that the benefits will be gained from Stage two. Since its value in safety terms is unknown, the Committee believes Stage one should be removed from the draft Directive and that Stage two (300 mm) should be introduced by 1 October 1998 given that industry has already had six years to prepare for its introduction.'

Reason for amendment

Stage one will have very limited value.

Result of vote

For: 46, against: 52, abstentions: 12.

Opinion on the proposal for a European Parliament and Council Directive relating to the frontal impact resistance of motor vehicles and amending Directive 70/156/EEC [1]

(95/C 256/07)

On 14 March 1995 the Council decided to consult the Economic and Social Committee, under Article 100a of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Industry, commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 7 June 1995. The Rapporteur was Mr Bagliano.

At its 327th Plenary Session (meeting of 5 July 1995), the Economic and social Committee adopted the following Opinion by a majority vote with sixteen abstentions.

1. Introduction

1.1. The draft Directive on frontal impact resistance of motor vehicles forms part of the regulation of Community vehicle-type approval, covered by framework Directive 70/156/EEC [2]. That Directive referred to specific Directives for collision tests, as for other vehicle technical characteristics.

1.2. The problem of collisions involving cars, particularly concerning the risk of cars being trapped beneath the rear end of large vehicles, such as lorries and buses, was addressed as far back as 1970. A specific response was given in Directive 70/221/EEC which stipulated that vehicles must be fitted with special rear-end devices or structures to protect car passengers by preventing cars from being trapped beneath the larger vehicles.

1.3. Subsequent to 1970, specifications for steering wheel displacement in the passenger compartment, as well as criteria for the absorption of energy generated by a frontal impact with a 'barrier' (at 50 km/h) were only introduced with the 1974 Directive (74/297/EEC) [3]. These criteria relate to the performance of vehicle materials, and might be described as 'geometric' (*e.g.* steering wheel displacement is 'measured' in centimetres); the (rigid) collision barriers consist of a structure, usually of reinforced concrete (weighing at least 70 tonnes), with a flat impact surface angled at 0°.

1.4. In 1991, Directive 91/662/EEC [4], amending Directive 74/297/EEC, introduced the first 'biomechanical' criterion, taking account of the effects of head-on collision on the driver's head.

1.5. Experience, together with technical and scientific advances, have progressively refined methodologies and measuring instruments. As a result, impact tests which are more representative of real accidents can be carried out.

1.6. The draft Directive aims to bring frontal impact tests up to date with technological and scientific progress, underpinning the 1991 Directive in this area, and amending the framework Directive — 70/156/EEC — to include 'frontal impact' in the list of tests required for type approval of the vehicle.

2. Scientific and technological progress

2.1. In drawing up the present draft Directive, the Commission has examined the tests and results so far available, carried out by:

— the European Experimental Vehicle Committee (EEVC), made up of national research laboratories and representatives of the industry; and

— the Group of Experts on Passive Safety (GRPS), set up under Working Group 29 of the United Nations Economic Commission for Europe.

2.2. The EEVC's work should be completed this spring, while the GRPS's findings have been transposed into a UNECE Regulation incorporating the results of an initial phase of work, which will come into force as soon as it is approved by the UN in New York, as the Commission states in point 5.1 of the Explanatory Memorandum.

3. The draft Directive

3.1. The aim, which may be thoroughly endorsed, is to reduce the number of serious injuries and deaths in

[1] OJ No C 396, 31. 12. 1994, p. 34.
[2] OJ No L 42, 23. 2. 1970, p. 1.
[3] OJ No L 165, 20. 6. 1974, p. 16.
[4] OJ No. L 366, 31. 12. 1991, p. 1.

head-on collisions. This is to be achieved by setting increasingly efficient standards, particularly for:

— checking the capacity of vehicle structures to absorb impact energy;

— the increasingly faithful reproduction of actual traffic accident conditions in tests.

3.2. The test, to determine the capacity of vehicle structures to absorb impact energy, involves bringing a full-scale vehicle into collision with a rigid barrier at a given velocity, in order to record the injuries suffered by the occupant using new biomechanical parameters measured on on-board dummies fitted with appropriate electro-mechanical equipment.

3.3. The proposal contains a legal section, fixing dates for implementation, and a second, technical part (Annexes I, II and III) describing test procedures and specifying the instruments to be used.

4. **Two stages are planned.**

4.1. In the 'first stage', use of a 30° angled rigid barrier, fitted with anti-slide devices (preventing the vehicle from sliding sideways on impact) and with an impact velocity of 50 km/h would become mandatory:

— from 1 October 1995 for approval of new vehicle types, and

— from 1 October 2000 for all new vehicles registered.

4.2. The 'second stage' provides for stricter standards, using an offset deformable barrier, coming into contact with 40% of vehicle width, and with an impact velocity of between 56 and 60 km/h:

— from 1 October 1998 for approval of new vehicle types, and

— from 1 October 2003 for all new vehicles registered, 'subject to a report from the Commission to the European Parliament and Council, to be made no later than 1 October 2001 on the operation of the Directive and the industrial feasibility of the above date'.

Manufacturers would have the option of bringing the date forward to 1 October 1996 for new vehicle types.

4.3. In the conclusions to its report, the Commission claims that the interim 'first stage' (based on the current standard in the United States), is a significant advance upon the existing European standard and that 'when [the second stage is] implemented it will greatly enhance the safety of vehicles'.

5. **Comments**

5.1. The draft Directive can only be welcomed. It takes into account the results and trends emerging from safety studies and research in Europe and the United States. This applies especially to the 'second stage' which introduces more sophisticated methodologies — and therefore test criteria which are more representative of traffic accidents — thereby making a decisive contribution to safety.

5.2. However, the results of the EEVC's work on the 'second stage' offset deformable barrier test — currently being confirmed — cast some doubt on the real value of the 'first stage', which is seen as interim.

Nevertheless, it should also be stressed that while the main aim of the 'first stage' is the immediate introduction of measures which are unquestionably effective for a substantial number of vehicles, it is not incompatible with the aim or methodology of the 'second stage' and does not have conflicting effects on the manufacture of the vehicles concerned. In particular, the 'first stage' requirements do not hamper future vehicle design to fit in with the 'second stage' requirements (within the deadlines proposed by the Commission).

5.3. From the legislative point of view, however, the lack in Annex III of all the necessary requirements for the 'second stage', renders the draft Directive incomplete. As a result, the 'second stage' cannot be adopted earlier.

As the principal technical requirements of the second stage test have been validated since the publication of the Commission's proposal, the ESC therefore urges the Commission to write them into this Directive, in order to bring the 'second stage' into force within the deadline set.

The ESC therefore urges the Commission to draft the necessary instruments as soon as possible, in order to bring the 'second stage' into force within the deadlines set.

5.4. The Economic and Social Committee also acknowledges the sense of responsibility displayed by the Commission in committing itself to submitting a report to Parliament by 1 October 2001 on both the operation of the Directive and the feasibility for industry of meeting the 1 October 2003 deadline.

The Committee has no doubt that the challenges thrown up by this diligence (in checking the 'first stage' results) and reservation (an assessment of 'stage two' feasibility) will be successfully met due to the contribution of all, including manufacturers, who have been moving determinedly in this direction for some time.

The Commission itself recognizes that many manufacturers have already incorporated offset deformable barrier tests into their development programmes for new models.

6. Conclusions

6.1. The Economic and Social Committee endorses the overall aim and requirements of the draft Directive.

However, it believes that while the 'first stage' may be acceptable — on the basis of necessity, the 'second stage' requirements not being ready — as a direct response by the Community legislator to an acute road safety problem, the 'second stage' constitutes a legislative instrument capable of achieving the aim of making road traffic safer, and significantly reducing the number of road accident deaths and injuries.

The Committee therefore calls for all requisite steps to be taken swiftly in respect of the 'second stage' to ensure that the Commission's deadlines are adhered to.

6.2. If, however, the Commission intends to take account of the doubts and comments expressed in paragraph 5 above and consider scrapping the first stage, the Committee strongly recommends that the application date for the frontal impact safety test (offset deformable barrier coming into contact with 40% of vehicle width) should be:

— not before 1 October 1998 for the approval of new vehicle types; and

— not before 1 October 2003 for all new vehicles.

6.3. The Economic and Social Committee is fully aware of the importance of the test requirements concerning vehicle resistance to collisions.

These requirements relate directly to the safety of vehicles and, therefore, to users' lives.

The Committee therefore intends to consider these problems further and to participate in discussions and socio-economic assessments of the initial application of the standards which are to be adopted as soon as possible.

Consequently, the Economic and Social Committee would ask to be provided with a copy of the Report to be submitted by the Commission by 1 October 2001.

Done at Brussels, 5 July 1995.

The President

of the Economic and Social Committee

Carlos FERRER

Opinion on:

— **the proposal for a Council Decision 95/0026 (SYN) on the implementation of a training programme for professionals in the European audiovisual programme industry (Media II — Training) (1996-2000), and**

— **the proposal for a Council Decision 95/0027 (CNS) on a programme to promote the development and distribution of European audiovisual works (Media II — Development and Distribution) (1996-2000)** [1]

(95/C 256/08)

On 19 April 1995 the Council decided to consult the Economic and Social Committee, under Articles 127 and 130 of the Treaty establishing the European Community, on the above-mentioned proposals.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 7 June 1995. The Rapporteur was Mr Pellarini.

At its 327th Plenary Session (meeting of 5 July 1995), the Economic and Social Committee adopted the following Opinion, by a majority with three abstentions.

1. Introduction

1.1. The Commission proposals are based on several documents, including the White Paper on Growth, Competitiveness and Employment; the Bangemann report on Europe and the Global Information Society; the Green Paper on Strategy Options to strengthen the European Programme Industry; the proceedings of the European Audiovisual Conference, held in Brussels from 30 June 1994 to 2 July 1994; and in particular on the evaluation of the Media programme's first two years of operation (COM(93) 364 final), the introduction to which states that 'the guidelines emerging from the evaluation have led the Commission to propose a number of technical and institutional adjustments to the Media programme'.

1.2. Given that 'a major objective for the European Union is to develop a European programme industry that is capable of satisfying the information society's cultural and economic requirements, that is competitive and will guarantee cost effectiveness in the long term', the Commission states that Community action must:

'— include measures with structural impact on the industry;

— take full advantage of the potential of Community-wide measures;

— encourage Community and national measures that complement each other as well as promoting joint financial responsibility on the part of the audiovisual industry;

— set up financial incentive mechanisms, by making greater use of returnable advances and soft loans rather than non-returnable grants;

— make greater use of automatic aid systems rather than selective aid systems.'

1.3. To put this into practice, two instruments are proposed: one for training professionals for the programme industry; the other for development and distribution of European audiovisual production.

1.4. The Commission also plans to 'encourage the creation of financial engineering mechanisms to stimulate the mobilization of financial resources for audiovisual production (cinema and television)'.

1.5. At its 1 841st session on 3-4 April 1995 the Council instructed the *ad hoc* working party on the audiovisual sector and Coreper to continue their analysis of the Commission proposals for Media II, and asked the Commission to establish the guidelines for the financial mechanisms as soon as possible. This would allow the Council to discuss the matter in depth at its June 1995 session.

1.6. At the same session, the Council decided that the Media II programme would be allocated MECU 400 over a five-year period, usually in the form of loans covering up to 50% of project costs, with possible exceptions for funding for training, which would cover up to 75% of project cost and would take the form of non-returnable grants.

2. Preliminary remarks

2.1. The ESC has already adopted several Opinions on the preparation of strategic objectives and specific

[1] OJ No C 108, 29. 4. 1995, pp. 4-8.

action programmes, both for information media in general and for the audiovisual sector in particular [1].

2.1.1. Despite the wide-ranging, on-going debate and the wealth of documentation available, the Commission's analysis seems to disregard certain factors which could jeopardize the key EU objective of cohesion and also have serious repercussions on the social front.

2.1.2. The Commission works on the premise that there is an inexorable world trend towards liberalization and deregulation of services, and that early and efficient action is needed to remove the barriers to the Single Market. Consequently it makes no attempt to look into the possible social consequences of the influence and pressure wielded by large international media groups, or of the foreseeable increased competition in the audiovisual sector.

2.1.3. According to recent information, the Commission plans to issue a Green Paper on the socio-cultural impact of the mass media later this year.

2.1.4. Given that the audiovisual sector is developing rapidly, and is instrumental in shaping cultural models and customs, the ESC feels that the Commission's working method is unsatisfactory. Launching concrete measures before examining these phenomena brings a risk that the measures will prove uncoordinated, in the absence of an overall strategy.

2.1.5. In particular, the ESC regrets to note that there is still a serious reluctance to tackle certain key problems such as the levels of liberalization and privatization, media concentration, consumer needs, a universal service and the role of public service networks.

2.2. We must now consider whether extension of the Media programme for a further five years, based on a new approach and new methods of intervention, would address at least in part the concerns mentioned above, and provide instruments calculated to improve the medium-term prospects of the European audiovisual production industry, which is currently in serious difficulty.

2.2.1. A first reading of the guidelines for Community support mechanisms gives the general impression that the document sets far-reaching objectives, capable of getting to grips with the structural weaknesses of the sector.

2.2.2. These will be dealt with under the General comments below.

2.2.3. The proposals for specific action seem, on the other hand, geared towards piecemeal rather than structural intervention, bearing in mind the priorities established inter alia during the discussions on amendments to the Media programme.

2.2.4. These will be discussed under the Specific comments below.

2.3. Whilst the ESC has given careful consideration to the proposals and welcomes the Commission's endeavours to devise legislation to improve the regulation of a Single Market based on free competition, it is disappointed that many of the suggestions and recommendations it has made on the subject in recent years — and produced thanks to a balanced consensus between different and sometimes opposing views — have been disregarded.

3. General comments

3.1. After stating that the European programme industry has serious structural shortcomings, and that a policy to safeguard its competitiveness in the medium term is needed, the Commission goes on to pinpoint the handicaps and weaknesses of the sector.

3.1.1. The most important of these are:

— fragmentation and partitioning into national markets;

— a low rate of cross-border programme distribution and circulation;

— chronic deficit and inability to attract capital;

— the difficulties involved in compiling programme catalogues (*i.e.* lists of productions available for distribution).

3.1.2. The Commission also discusses the competitiveness of the European audiovisual programme industry, and provides figures for the last ten years. A worrying decline emerges, to the benefit of the United States in particular.

3.1.3. This analysis leads the Commission to conclude that the weaknesses in the European programme industry

[1] ESC Opinion on the action programme to promote the development of the European audiovisual industry — Media (1991-1995) — OJ No C 332, 31. 12. 1990; ESC Opinion on the implementation of the Media action programme — OJ No C 148, 30. 5. 1994; ESC Opinion on the Green Paper on Pluralism and Media Concentration in the Internal Market — OJ No C 304, 10. 11. 1993; ESC Opinion on the follow-up to the Green paper on Pluralism and Media Concentration — OJ No C 110, 2. 5. 1995.

affect 'the whole production and distribution chain', and that it is thus fundamental 'to rethink the organization of the industry and its support mechanisms' without 'replacing the mechanisms operated by Member States to foster their national cultural identities'.

3.2. It would be helpful to look into some of the shortcomings in the Commission's analysis.

3.2.1. The history of the cinema — which gradually became entwined with that of television — has been marked by differing fortunes, particularly as regards the relative positions of Europe and the United States.

3.2.2. The successes and failures on both sides of the Atlantic, and their attendant economic implications, can generally be attributed more to the cultural message intrinsic in the work and to the way this is embraced by the public, rather than to production organizational skills.

3.2.3. The current success of the American model is due not only to cost-cutting and profit maximization, achieved by optimum organization throughout the production process (from the original idea to marketing the final product, including spin-off in the ancillary market); it is also due to the fact that it concentrates on productions with heavily standardized messages calculated to attract large audiences.

3.2.4. Whilst it would perhaps be simplistic to talk of cultural colonization, we should nevertheless realize that the problems facing the European audiovisual industry can be measured not only in terms of financial and organizational potential, but also — more importantly — in terms of the cultural content of production. The Commission proposals do not intend to tackle this.

3.2.5. This is the first point on which the Commission document is inconsistent with the widely-accepted need to put our 'European cultural identity' first. The EU recognized this priority in December 1993 when it decided to exclude the audiovisual sector from the GATT trade agreement.

3.2.6. The Commission's action in this area should therefore take account of the risks involved in merely stimulating a market which is already largely dominated by non-European production.

3.2.7. The Commission's analysis also completely overlooks the influence which existing public and private bodies might have on the success or failure of the proposed actions. Indeed, these bodies are indirectly accused of creating the present difficulties.

3.2.8. For example, the programme for development and distribution of works makes great play of the possible structural role of SMEs and independent productions.

3.2.9. We can only concur with the need to enhance the role of SMEs, but to think that this is the way to create an alternative to the dominant groups is as fanciful as, for example, suggesting a European transport policy whilst neglecting to involve the most important car manufacturers.

3.2.10. It is not a matter of providing subsidies or funding for these bodies, but rather of establishing instruments to give them a clear and positive role in the desired restructuring of the sector.

3.3. The ESC provisionally endorses the proposals to set up:

a) a framework for exchanges of experience, backed up by a databank of national support systems;

b) financial engineering mechanisms to encourage pooling of resources.

The ESC reserves the right to analyze the proposals in detail when the Commission presents them.

3.4. In view of the above comments, the ESC welcomes the proposals regarding training, development and distribution. It feels however, that they are unlikely to produce structural effects, firstly because of the limited funding available, and secondly because they do not involve the whole chain from production to distribution, but are confined to individual sectors.

4. Specific comments

4.1. *Training*

4.1.1. The ESC endorses the actions for training in economic and commercial management, as it feels the various European training centres are particularly weak in this area.

4.1.2. It also endorses the need and expediency of fostering networks of training bodies, and providing study grants and work-experience placements in companies in other Member States. Work experience placements in non-EU companies should also be included.

4.1.3. The ESC does, however, have some reservations regarding training on new technologies, particularly in the computer graphics sector, because of:

— the high costs involved (a single machine can cost as much as ECU 150 000);

— their limited use: virtually the same results can be achieved with less costly techniques;

— the fact that technical training is usually provided by the production industries.

4.1.4. Therefore, bearing in mind the financial and technical commitments involved, the ESC feels it would be better to set up one or two top-level European training centres for professionals who already have a good grasp of basic technology.

4.1.5. The ESC would also favour training schemes for actors and technicians who provide dubbing services, in order to facilitate the circulation of productions within the EU.

4.1.6. Regarding the amount of funding available, the ESC feels that the maximum of ECU 100 000 per centre per annum is inadequate. There is a risk that this will lead to large numbers of small-scale initiatives and consequently a dissipation of resources, rather than concentrating on a few centres which could become benchmarks and spearhead innovation in the sector.

4.1.7. The ESC would also point out that cultural pluralism will not be protected merely by involving specialized training institutes on a fair geographical basis. Providing sample syllabuses for certain courses could be extremely helpful in upholding the cultural diversity of Member States, without sacrificing this diversity to any competition-induced integration.

4.1.8. Regarding the final assessment of the programmes, the ESC feels that in addition to the various anti-fraud checks provided for, an anonymous assessment form should be issued to each student to fill in at the end of the course.

4.2. *Development and distribution*

4.2.1. It should first be noted that access to funding is subject to a feasibility study by the Commission acting under the advisory committee procedure. This runs counter to the Commission's declared intention to 'make greater use of automatic aid systems rather than selective aid systems'.

4.2.2. Although the action and funding procedures are clearly stated in the programme, it must be said that a whole range of issues remain rather hazy.

4.2.3. The proposal repeatedly mentions 'independent European production companies' as the main beneficiaries, without actually defining what kind of independence is meant, or how that independence would be verified.

4.2.4. Furthermore, the proposal ignores the urgent problem posed by the large media conglomerates and their international links, whereas it should suggest measures to avoid production and distribution subsidies going to these groups.

4.2.5. The ESC feels that in order to avoid this, and in keeping with the need for transparency, a limit should be set on company size, using the criteria adopted for aid to SMEs. Monitoring procedures should also be made available: they could at least be required to publish details of their company structure and accounts.

4.2.6. The ESC would like to see other development and distribution measures calculated to bring economic benefits without requiring direct funding. These might involve strengthening intellectual property rights, tax deductions, or long-term guarantees on soft loans.

4.2.7. Finally, pending the amendments to the Directive on 'Television without frontiers' where new regulations on European programme quotas are envisaged, the ESC feels that a distinction should be made between support mechanisms for television production, and those for cinema production.

5. Conclusions

5.1. Of all potential growth industries, the audiovisual sector has a particularly important role to play in boosting employment. Whilst the ESC endorses the Commission's specific proposals as a first step towards a solution, it would express its dismay at the shortcomings in the general analysis of the audiovisual sector's problems, and feels that the proposals are unlikely to produce structural effects, due to inadequate funding and the sectoral nature of the proposals themselves.

5.2. The ESC feels that the Commission should set up a European Audiovisual Agency in order to achieve a more concrete cultural policy and to defend our 'European cultural identity'.

5.3. This Agency could constitute a non-bureaucratic meeting point and centre for cooperation and coordination in several fields, from production to distribution under a single European trade-mark. Funding could be provided by a judicious combination of support grants and mechanisms envisaged for encouraging finance.

5.4. The ESC hopes that the training programme will be implemented according to criteria which reduce the risk of resources being wasted and ensure that the programmes and their funding are as effective as possible.

5.5. For the development and distribution programme, the ESC feels that a clearer definition is needed of the criteria and instruments which can help to pinpoint eligible parties and ensure maximum transparency.

Done at Brussels, 5 July 1995.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the 'Fourth World Conference on Women'

(95/C 256/09)

On 23 February 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 'Fourth World Conference on Women'.

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 21 June 1995. The Rapporteur was Mrs Costa Macedo.

At its 327th Plenary Session (meeting of 6 July 1995), the Economic and Social Committee adopted the following Opinion by a majority with ten abstentions.

1. Introduction

1.1. The third UN World Conference on Women, held in Nairobi in 1985, approved implementation of forward-looking action strategies for promoting women and recommended measures for achieving these.

1.2. It will thus fall to the Beijing Conference (4-15 September 1995) to assess progress throughout the world in human rights and the promotion of fundamental rights and freedom for women; the Conference is also to discuss the upsurge in poverty amongst women.

1.3. Given the importance of the conclusions of the Rio Conference on the environment and development, the Vienna Conference on human rights, the Cairo Conference on population and development and the World Summit in Copenhagen on social development, it is imperative that the final document of the Beijing Conference be in keeping with the decisions adopted at these other Conferences.

1.4. The General Assembly of the UN held on 13 December 1985 defined both the strategic objective of the preparatory meetings of the conference for that decade and the priority objective of its work as being the fight for equality, development and peace and the adoption of the most suitable measures for achieving these objectives in a realistic, practical fashion. The idea is that the main debate of the 1995 conference should focus on the path to follow to promote women in all countries, taking account of their cultural diversity and different economic circumstances.

1.5. The main aim of the 1995 conference is to review the world-wide situation and to assess progress in women's circumstances in the light of the objectives and strategies defined in Nairobi. This aim thus a) presupposes the political will to adopt a platform for

more forceful action, stressing key questions which are seen as the main obstacles to development and advancement for the majority of women in the world and b) involves setting priorities for implementing a new programme during the 1996-2001 period.

1.6. This new 'Platform for Action of the Fourth World Conference on Women — Equality, Development and Peace' currently under discussion is therefore to be defined and adopted in Beijing in September 1995. This 'platform' defines key areas for action where basic shortcomings still exist, including those relating to the way decision-making powers are shared between men and women; respect of women's fundamental rights; real access for women to basic education and health services; equal participation in economic life, recognition of women's contribution to the economy and the sharing of family and work responsibilities between men and women; and moves to combat violence against women. This platform is also to propose new national and international mechanisms for boosting equal development and participation for women.

1.7. The Committee stresses the fact that women world-wide make up more than half of the population; they, together with their children, constitute the large majority of those living in poverty and suffer all kinds of disadvantages, in particular because of their lack of education and vocational training. This impact has far-reaching repercussions on their ability to exercise rights and duties and meet responsibilities, and consequently affects all life in society; the Beijing Conference must therefore come up with a final document which is capable of providing a new momentum in the promotion of women's rights and responsibilities throughout the world.

1.8. This therefore requires that the Conference adopt decisions on feasible objectives which are realistic enough to instigate the changes needed throughout the world, so that the Conference's final document in fact develops into an instrument which can be applied in a whole series of different cultural, social and economic environments, and leads to new commitment to equal opportunities and women's advancement; these matters should not be viewed as marginal issues which only concern women, but as political issues which concern the whole of society, constitute a key factor in development and affect democracy.

2. General comments

2.1. The Committee recognizes the importance of the Fourth World Conference on Women and believes that this event can help establish effective equal opportunities, genuine improvements in women's living conditions and increased development which would allow all women to declare and claim their due.

2.2. It should nonetheless be noted that promoting equal opportunities between men and women is not simply a matter of applying laws or adopting new legislation or new measures. It is much more fundamental than that: it involves a choice of society and development model, which in turn should involve a change in attitude and behaviour and mean that segregation and discrimination can effectively be overcome.

2.3. The Committee feels that it must be stressed at this point that the strategies for promoting equal rights and opportunities and equal freedoms and progress for all women and men must involve:

— establishing specific measures for improving women's circumstances in practice, particularly as regards employment;

— setting up contact and exchange networks;

— developing training programmes and awareness and information campaigns and crucial health and education programmes to counteract the continual physical violation of women's and girls' human rights;

— financing specific positive action measures, particularly to help women in the poorest categories, but also to secure equal participation for women in decision-making.

2.4. It is therefore important to focus development dynamics in this way on those practices and models liable a) to solve the problems and overcome the common obstacles encountered by a majority of women in the world and b) to redress present inequalities, encouraging the various operators concerned to mobilize resources, so as to make it possible to identify more quickly which are the best routes to suitable, definitive solutions.

2.5. The Community and its Institutions have been a driving force in promoting equal opportunities between men and women. By adopting appropriate legislation and action programmes to promote equal opportunities between men and women since 1975, the Community has gradually defined and expanded the field of application of the equality principle already stated in Article 119 of the Treaty, but limited to equal pay for equal work.

2.6. Recognizing the positive, stimulating impact of Commission action to encourage well-integrated development by Member States, the Committee nevertheless feels that moves to expand and consolidate existing Community legislation in this area should be continued and stepped up so as to cope with the new

socio-economic context and new challenges in the 21st century.

2.7. The Committee's interest in the Beijing Conference, and indeed the interest of the European Community as a whole, stems from a common concern that the principles of equality and parity in democracy be applied in promoting women's status in all Member States. In view of the European Union's key commitment to development cooperation, it can help ensure that more account is taken of women's problems throughout the world, particularly in developing countries.

2.8. Against this background, the Committee reaffirms the Union's general responsibility for promoting and protecting universal human rights, of which women's rights form an integral, inalienable and inseparable part. Indeed, even within the European Union women do not yet enjoy their rights fully in the same way as men due largely to certain cultural and social attitudes. It is therefore recommended that institutions draw up programmes and measures to boost women's powers and responsibilities, not only to improve their status but to improve society as a whole, with a view to achieving social justice and strengthening democracy.

2.9. The following concerns have been identified at the regional preparatory meetings for the Beijing Conference, including the Vienna meeting, and confirmed at the last preparatory Committee meeting in New York. The Committee feels that these are most important:

— inadequate promotion and protection of human rights for women;

— an increasing number of women in poverty;

— insufficient awareness of women's contribution to the economy in the context of sustainable development, together with inadequate promotion of their potential;

— not enough instances of de facto equality between sexes in employment and in economic and political opportunities, and inadequate measures for reconciling work and family responsibilities;

— not enough women involved in political life;

— inadequate statistical systems, data bases and methods to be able to outline policies and legislation with a full knowledge of the facts involved, and to secure equal opportunities between men and women; and

— inadequate intra- and inter-regional networks for improving women's circumstances.

2.10. Highlighting the Resolution adopted by the Social Affairs Council of Ministers on 27 March 1995 on balanced participation by men and women in political decision-making, the Committee underlines the need for all the Member States to strengthen mechanisms for boosting equality not only at national, but also at regional and local level, inter alia to respond to women's requirements for information. In addition, all European institutions need to develop mechanisms to ensure that equal opportunities criteria and objectives are mainstreamed into their specific areas of responsibility.

2.11. The Committee also feels that assistance should be stepped up for actions undertaken within the Community equality networks set up by the European Commission, which involve representatives from all Member States.

2.12. The Committee endorses the broad series of measures proposed by the Vienna platform. These include specific recommendations, the implementation of which will fall to governments, but they also refer to the predominant role to be played by the NGOs, international, regional and sub-regional bodies and operators in development cooperation.

2.13. The Committee underlines the need and the responsibility for monitoring follow-up which must be entrusted to the European Union, the European Commission and national equality mechanisms, in keeping with these bodies' respective powers. Given that the preparatory meetings have already paid special attention to mobilization of financial resources for the new strategies to be adopted, the Committee endorses the idea of establishing global objectives for mobilizing resources.

2.14. In the light of the Vienna Conference negotiations, the Committee considers 0,7% of GNP to be a fair allocation for official development aid. It recommends that this decision be implemented speedily and backed up by strict assessment and follow-up mechanisms.

2.15. From a general point of view, the Committee urges that the decisions relating to women taken at the Conference on the Environment in Rio de Janeiro, the Vienna Human Rights Conference, the Cairo Conference on Population and the Social Summit in Copenhagen be confirmed and fleshed out in the decisions taken at the Fourth World Conference on Women.

3. Specific comments

3.1. The Economic and Social Committee has taken careful note of the principles set out in Nairobi by the United Nations on examination of the application of

forward-looking strategies for action; the Committee proposes that an international mechanism be established to monitor application of the international development strategy as it affects women in this specific context.

3.2. Over and above the general intentions of defining measures for dealing with the numerous obstacles to women participating more in the world of work and in society on an equal footing with men, the Committee highlights the urgent need to:

— apply effectively current measures to boost women's integration in the labour market,

— intensify the efforts to reach the goal of equal pay,

— improve their working conditions and social protection, particularly in the many atypical forms of work situations, such as part-time work, work at home and contract work, as well as work in free zones, where mainly women are employed,

— improve their opportunities for professional advancement,

— secure an equal division of family and work responsibilities between men and women,

— so as to give shape to a key dimension of the strategy for economic and social cohesion in Europe, and as a condition for sustainable development in the rest of the world.

3.2.1. Faced with all the changes expected in this last decade of the millennium, Europe for its part will need skilled labour, and here women's contribution will be a determining factor. However, in most Member States women often represent an under-used source of labour and, to a considerable extent, women still fill low-skilled jobs, often with little job security. The Committee is aware of this and notes that the gap is widening between male and female unemployment rates (7% and 12% respectively) in the European Union as a whole. Even more worrying is the increase in the number of long-term unemployed women, who today constitute 55% of all long-term unemployed and are encountering particularly serious difficulties in finding employment again.

3.2.2. In the developing countries, taking account of the indicators which show that in most of these countries women make up more than 50% of the rural population and between 50 and 70% of the agricultural workforce, the Committee feels that there is a pressing need for world-wide recognition and appreciation of the many contributions which women from rural and farming environments make to the family, community and society in general, particularly their role in environmental conservation. It should also be pointed out that in these countries women represent a significant force in agriculture; their contribution to the gross domestic product is estimated at 35 to 45% and they produce more than 50% of the developing world's foodstuffs. However, more than 500 million of them live in poverty, are often reduced to subsistence farming and do not have access to resources or markets.

3.2.3. Moreover, the Committee recommends that special attention be devoted to the problems associated with women in rural areas — particularly those involved in farming who continue to be cut off from know-how and practice in modern farming technologies.

These new technologies usually accrue to men, either because of the existing male/female relationships, or because of programmes which are mainly directed at men. They are often implemented at the expense of the prevailing land use by women.

Action must therefore be taken to remedy the generally disadvantaged conditions under which women in the poorest countries live and work, by involving them as both participants and beneficiaries in programmes and development projects aiming to improve rural living standards.

3.2.4. Moreover, the Committee points out that as a result of economic developments at international level (industrial restructuring, structural adjustment programmes), the employment situation for women in developing countries has deteriorated and women are increasingly having to turn to insecure, low-paid and vulnerable jobs.

3.2.5. Through both its aid policy and its trade policy, the EU can create conditions which will underpin the improvement of the position of women in developing countries. Through its aid policy the EU can introduce 'positive discrimination' in favour of countries which respect internationally recognized women's rights. In the trade context the EU should argue strongly in international fora for the inclusion of a social clause in international trade agreements within the WTO.

3.2.6. The Committee would also draw attention to the increasingly difficult situation of women in the countries of central and eastern Europe currently undergoing transition. It considers that the European Union has a particular responsibility towards these countries and the women who live there, especially on the basis of current and future agreements.

3.3. So that the objectives of a policy promoting equality can be fully attained, the Committee feels it is most important that three basic principles of the

Community's third programme of medium-term actions (1991-1995) be put into practice:

— an integrated approach allowing combined, complementary use of the various measures;

— a partnership policy allowing all operators concerned to be mobilized;

— regular assessment of programmes and measures and establishment of assessment tools which are better suited to the Community context.

3.4. The Committee believes that equality objectives should feature strongly in all economic policies. It endorses the Commission's proposal to establish a new fourth medium-term action programme for equal opportunities, the main objective of which is to help promote women's participation on the labour market. The Committee will be able to make a useful contribution here on the basis of its expertise and representative nature.

3.5. From the main questions and concerns raised in the preparatory meetings it is clear that the European Community and its Institutions can provide key assistance in drawing up suitable responses to the following problems: women's situations in armed conflicts and their part in establishing peace (this is a highly topical question for the four platforms in the south); the need for women to be represented in the media in a less stereotyped fashion; unequal access for women to education and health; insufficient attention being paid to women's potential role in environmental matters; inadequacy of mechanisms, which encourages discrimination against women and girls; women's key role in culture, family and integration into society; equality of the sexes in an approach geared to women in economic and social development; the unequal sharing between men and women of professional and family responsibilities and recognition of women's intellectual and technical abilities.

3.6. Given Community legislation to date, which respects women's rights, the Committee readily supports the guidelines put forward by the Commission during the preparatory process in its Communication to the Council of 31 May 1995, and feels it would be of benefit to all parties concerned for the European Union to be involved, not only in the prior negotiations but also in the Beijing Conference itself.

3.7. On the basis of its various Opinions and its powers, the Committee is also willing to help improve existing legislation and to give assistance in drawing up and adopting draft directives, aimed at eliminating 'indirect discrimination' and implementing the principle of the 'equal pay for equal work'. The Committee has already issued an Opinion on application of the principle of equal opportunities between men and women working on a freelance basis, including farming [1], as well as on protection of maternity benefits and on parental leave and leave on family grounds, stressing the urgent need for measures to make it easier to reconcile family and professional responsibilities [2].

3.8. The Committee urges Member States of the EU which have not yet ratified the main relevant Conventions of the ILO, such as the Convention on discrimination in jobs and professions (No 111), and the Convention on workers with family responsibilities (No 156), to check whether they can still do so in the short term. It calls upon the European Union to take the lead in an international campaign to have these Conventions ratified by as many states as possible, along with Convention No 100 (equal pay).

3.9. In view of the very nature, responsibilities and objectives of the Economic and Social Committee and considering its actions and its experience, the Committee has asked to be represented in the European Community's delegation to the Beijing Conference.

4. Conclusion

Support for the Conference's objectives

4.1. The Committee acknowledges the importance of the 1995 Beijing Conference, highlighting its principle aim, which is to take stock of the last Decade launched by the Nairobi Conference in 1985, to assess world-wide progress in securing human rights and in promoting women's rights and basic freedoms, and above all to recommend to decision-makers the world over new specific measures for promoting women and equal opportunities.

Upgrading women's role in society

4.2. The Committee would draw attention to the fact that, world-wide, women constitute more than half of the population, and it has been calculated that the number of women among those living in poverty has increased by more than 50% over the last 20 years. This has been caused by a variety of factors: the current economic crises, the deterioration in development aid and terms of trade, the increase in internal and external

(1) OJ No C 95, 11. 4. 1988.
(2) OJ No C 41, 18. 2. 1991; OJ No C 40, 17. 2. 1992; OJ No C 14, 20. 1. 1992.

debt, inadequate resource distribution, political and social instability and systemic recession, amongst other complications. The increase in female poverty requires operational strategies and action programmes which are focused on women's economic, cultural and social needs and their welfare, so that women's role in families and in communities can be acknowledged and shared by men. This productive and social role must be properly secured in all development aid measures and in the allocation of adequate resources. In particular women need better access to education as this is one of the chief routes to reducing infant mortality and to improving women's status.

Action plans in developing countries

4.3. The Committee feels that the aims and objectives of the Decade — equality, development and peace — have not been fully achieved. It believes that it is most urgent to encourage the distribution of multilateral and bilateral aid for developing countries in such a way that action plans are established which can be expressed in quantitative terms, monitored and adjusted and which set out precise objectives and a strict timetable. This would be aimed at dealing with the problems preventing the consolidation of women's status. The action plans will have to take account of women's cultural and religious environment. They will of course have to be backed up by institutional and financial mechanisms to enable them to be implemented.

European Union policy on social issues to provide a model

4.4. Bearing in mind the Union's determination to tackle problems and face up to the current economic and social changes in the countries of the European Union, the Committee acknowledges the contribution of the White Paper on social policy which follows on from the Green Paper; it feels that the proposals made therein, and the favourable response with which it has met, can be powerful instruments for giving a certain impetus in the areas concerned, particularly in matters relating to a combined policy for the labour market and social issues.

4.5. Consequently the Committee hopes to see the European Union promoting the same principles at international level and providing an original and effective response to the main problems facing the world and women in particular today, by proposing new models based on experience gained in Europe.

Main objectives ascribed to the European Union

4.6. The adoption and implementation of strategic objectives which allow women economic independence:

— access to schooling and vocational training;

— access to health education and training;

— access not only to the resources necessary for decent living conditions but also to the means and measures to alleviate their excessive family burdens and reconcile working time with family time.

The Committee wants the European Union to support and propose these fundamental, decisive factors at the Beijing Conference, so that all women can escape once and for all from poverty and violence, participate in the decision-making process and stand up to all forms of discrimination.

Recommendations to UN Member Countries

4.7. Mindful of the major cooperation commitments for development and active solidarity required to achieve equality, the Committee calls on the Member States of the UN:

— to encourage implementation of the recommendations needed for the changes called for;

— to guarantee women's and girls' rights and counter the continuous violations of their dignity;

— to ensure women's full access to their fundamental rights as an integral, inalienable and inseparable part of universal human rights, which underlie the entire democratic process;

— to give priority to women's education and training;

— to adopt resolutions which unambiguously set out political measures which would effectively enable women to be independent and enterprising and to be more consciously involved in taking decisions which affect the socio-economic framework in which they live.

Follow-up to the Beijing Conference

4.8. Moreover, the Committee feels that the Beijing Conference ought to secure, in all clarity and transparency, an unqualified final document guaranteed by a solidarity-based platform which should allow swift application of priority measures in all areas for securing women's dignity, equality and freedom, so that the value of women's key contribution to the economy, culture and progress can be enhanced and appreciated.

4.9. Finally, the Committee confirms the crucial need to negotiate with all the parties involved, and adopt specific measures to counter exclusion with all the parties involved, and proposes that mechanisms be adopted which ensure that all anti-poverty programmes

give priority to the basic socio-economic needs of women.

4.10. The Committee continues to advocate a strategy involving NGOs, reinforcing their status and capabilities and also involving all social and cultural partners in their capacity as key protagonists in promoting women's status, so as to secure the drive for development and for the fight for freedom, justice and peace — values which are essential for human progress.

Done at Brussels, 6 July 1995.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the Green Paper 'For a European Union Energy Policy'

(95/C 256/10)

On 24 January 1995 the Commission decided to consult the Economic and Social Committee, under Article 198(2) of the Treaty establishing the European Community, on the Green Paper 'For a European Union Energy Policy'.

The Section for Energy, Nuclear Questions and Research, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 22 June 1995. The Rapporteur was Mr von der Decken.

At its 327th Plenary Session held on 5/6 July (meeting of 5 July), the Economic and Social Committee adopted the following Opinion by a majority with three abstentions.

1. Introduction

1.1. The Green Paper 'For a European Energy Policy' was adopted in January 1995 after months of intense discussion with the national authorities and relevant socio-economic organizations.

1.2. In the course of these discussions the Commission received numerous written contributions, some in response to the preparatory document which it had drawn up.

1.3. The Commission collected together this preparatory document and all of the contributions in a document dated November 1994 and entitled 'Preparatory material for the Green Paper on new guidelines on energy policy'.

1.4. According to the Commission, the main purpose of the Green Paper is to provide the European institutions with the basis for evaluating whether or not the Community has a greater role to play in energy.

1.5. The Green Paper is intended to stimulate debate on the energy issue among all those with concerns, responsibilities and interests in the field. It is not therefore a political document. Basically its aim is (i) to take stock of the present energy situation and prospects for the next twenty years and accepting that the energy sector is entering a period of far-reaching changes, taking into account

— environmental demands,

— liberalization of the markets,

— energy-efficiency proposals,

— increased energy consumption,

— geopolitical changes affecting both the Community's security of supply and consumption patterns,

and (ii) to enable the Commission to specify, in a future White Paper, what it considers are the main challenges and their implications for the European Union and hence to define the main principles of a Community energy policy.

1.6. The Commission hopes that this first stage will culminate in the adoption by the Council of conclusions

setting out some political guidelines for further work; the Commission will then prepare a White Paper to be presented at the end of 1995 at the latest.

1.7. The ESC decided as far back as March 1993 to draw up an Own-initiative Opinion on Community Energy Policy [1], which was adopted on 14 September 1994 by a large majority.

1.7.1. As part of its preparatory work the Section organized two hearings to gather the opinions of independent experts and the main socio-economic organizations working in the energy sector.

1.8. The ESC Opinion on Community Energy Policy was drafted at more or less the same time as the Commission Green Paper. This meant that it was not possible fully to incorporate the contents of the ESC Opinion in the Commission Green Paper.

1.9. The Own-initiative Opinion on Community Energy Policy is still representative of the ESC's current view, and should therefore be seen as an integral part of this present Opinion; the two must be read in tandem.

1.10. In order to avoid repetition, the present Opinion will merely raise a number of additional points that were touched on in the Green Paper.

1.11. The purpose of this Opinion's critical comments on the Green Paper is to provide a stimulus for the Commission's work in drafting the White Paper.

2. General comments

2.1. The ESC shares the Commission's view that there is an urgent need to address the issue of energy policy and to hold a comprehensive debate on it. That is also why the ESC started work on an Own-initiative Opinion as long ago as 1993. The present Opinion is intended as a supplement to that.

2.2. The ESC welcomes the Commission's intention to use the Green Paper as a means of opening a wide-ranging debate which will 'enable the Community to set new energy policy goals which will serve as a frame of reference for the actions of the Community and of its Member States' and recognizes that 'the Green Paper aims to provide the European institutions with the basis for evaluating whether or not the Community has a greater role to play in energy.'

2.3. However, the ESC feels that the present Commission Green Paper does not live up to these aspirations. It is not possible, nor is it intended, for this Green Paper to formulate a longer-term strategic energy policy, as will be done in the White Paper which the Commission is due to publish in the autumn. But the Commission should at least present some clear considerations as a first step towards a recognizable Community energy policy, over and above the policies of individual states and their convergence. The Green Paper could have provided an opportunity to illustrate why it is necessary to have a longer-term strategy for a Community energy policy which is complementary to national energy policies and which pinpoints responsibilities.

2.4. The division of responsibility between the Community and individual states, *i.e.* subsidiarity (institutional questions) is extremely important, not only when formulating long-term energy policy objectives, but also when implementing energy policy in practical terms. The Commission has therefore devoted a good deal of the Green Paper to these institutional questions.

2.5. Unfortunately, even on these questions, the Green Paper only makes very general comments. Statements like 'The Community has responsibilities concerning energy' are not very helpful, and the following is too vague:

> 'The role of the Community is to place all its horizontal and/or sectoral instruments at the disposal of these objectives. This will ensure that the integration of the market can proceed while taking due account of the general interest. The Community dimension should also add value to actions and policies taken at the national level.'
> (Point 67)

The issue of instruments will be dealt with under 'Specific comments'.

2.6. In any event there is no recognizable attempt at a clear and systematic division of powers. From the Green Paper it is therefore impossible to evaluate whether or not the European Union must play a more active role in the energy sector on the basis of an assessment of the division of powers between Community, Member State and region and between public authorities and companies, especially as energy policy in general is being influenced more and more by internationally active businesses.

2.7. The ESC does not wish to comment at this time on the information about the energy context and trends (scenarios) contained in the Annexes as the Commission intends to give a detailed and up-to-date picture in its White Paper.

2.8. The ESC regrets that the Commission has not yet published the proposed Communication on the Illustrative Nuclear Programme for the Community

[1] OJ No C 393, 31. 12. 1994.

(PINC), as the ESC sees this Communication as the essential basis for preparation of the White Paper. The ESC would point out that it is the Commission's responsibility under Article 40 of the Euratom Treaty to publish such programmes periodically.

3. **Specific comments**

3.1. *Future energy policy objectives*

3.1.1. In the introduction to the Green Paper, the Commission states, under the heading 'The Essentials of Energy Policy':

> 'The energy policy objectives for the Community are appraised in terms of the challenges identified.
>
> These objectives are readily apparent involving, as they do, the management of policy to ensure the satisfaction of all users needs at the least cost while meeting the requirements of security of supply and environmental protection.
>
> But these objectives are contradictory. The difficulty will be to balance the different elements in such a way that the essential objectives can be satisfied. What the Green Paper proposes for debate therefore is how to attain these objectives within the framework of an integrated European market.'

3.1.2. Meanwhile, in Chapter II, the following future energy policy objectives are described in detail: overall competitiveness, security of supply and environment.

3.1.3. Chapter III then lists security of supply and environmental protection as essentials again.

3.1.4. This lack of clear definition continues through Chapter II in the description of 'energy policy objectives'. It is generally unclear whether the Commission is formulating objectives or presenting problems. The 'overall competitiveness' objective is particularly diffuse. Does it mean the competitiveness of energy producers (some of which are multinational companies and others are State-owned monopolies), or the competitiveness of consumers, *i.e.* European industry, or is it basically referring to the functioning of the liberalized internal market with a minimum of regulation?

3.1.5. If it were possible to derive or distil real objectives from this description of overall competitiveness, these objectives would have to be prioritized in relation to a far-sighted, long-term policy to ensure security of supply.

3.1.5.1. Where do the priorities lie when, for example, the energy market is liberalized and there is a move towards a particular source of energy which may lead to problems with the diversification of supply for security reasons?

3.1.6. It is necessary to evolve a procedure for fixing and coordinating the priorities to be given to general interest tasks in relation to liberalization.

3.1.7. The Commission states: 'Synergies between the objectives of competitiveness, energy security and environmental protection need to be developed; in the case of conflicts between objectives, flanking measures need to be devised'. (Section 2.3. 'Environment' - second paragraph). What synergies are these? Will they be adequate, and what flanking measures are meant here? Here, too, the fixing of priorities will have to be coordinated.

3.1.8. Reconciling the internalization of external costs with the goal of overall competitiveness also poses problems.

3.1.8.1. The ESC commented in detail on the internalization of external costs in its Opinion of 27 April 1995 on the Commission Communication on Economic Growth and the Environment [1]. Further discussion in this Opinion is unnecessary.

3.1.9. The Commission has set itself two goals, namely:

— limiting regulation as the liberalized internal market is introduced

and

— moving back towards making greater use of economic instruments (taxes, charges, technical regulations).

Reconciling these two goals is particularly problematic, because it means fixing and coordinating priorities between the various classical aspects of energy policy and the future tasks of energy policy.

3.1.10. The ESC feels that it is clear from these few examples that Chapter II of the Green Paper is not a first step towards formulating energy policy objectives, but rather a description of the issues involved. Above all, the Commission largely leaves open the question of priorities among the objectives, although it seems to give precedence to the internal market. The ESC thinks that the requirements of a future energy policy can only be satisfied if these priorities are held in constant balance.

3.1.11. The ESC wishes to point out as a matter of urgency that apart from the three objectives referred to in Chapter II of the Green Paper (overall competitiveness, security of supply, environment), there are two important objectives:

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[1] OJ No C 155, 21. 6. 1995, p. 1.

3.1.11.1. First, economic and social cohesion on which the ESC produced a detailed Opinion [1]. It is surprised that the Commission does not list this objective in its Green Paper and does not acknowledge its Communication of February 1994 on this matter and the ESC Opinion.

3.1.11.2. Second, the creation of employment opportunities through energy policy. This objective must be an integral part of any scenario which should be detailed in the White Paper.

3.1.12. The ESC thinks that these two objectives must also be dealt with in the White Paper.

3.2. *The instruments*

3.2.1. As well as the definition of long-term strategic energy policy objectives, the practical implementation of these objectives is crucial for energy policy, as are the economic and regulatory instruments required to implement them.

3.2.2. When applying these instruments it is particularly important to define the responsibilities and powers of the Community and the Member States as clearly as possible.

3.2.3. In the Commission's view, the Green Paper is intended to be a contribution towards laying down a new regulatory framework for the energy sector. It highlights the large number of economic and regulatory instruments and the fact that they are necessary for energy policy. However, there is no attempt to give a clear definition of responsibilities and powers with regard to these instruments.

3.2.4. Despite the Commission's fundamental position that regulation should be kept to a minimum as the internal market is opened up, and the view that intervention by public authorities, including the Community, is only justified in a few cases, there are plenty of indications in the Green Paper that the Commission sees economic and regulatory instruments playing a central role, while there is no mention of defining responsibilities and powers.

3.2.5. When considering the gaps and shortcomings in the current situation the Commission reaches the following conclusion:

> 'As far as the Community framework is concerned, the analysis reveals that the coherent development of policy instruments is hindered by the absence of clear responsibilities for energy policy at Community level.'
> (Introduction, 'Policy Directions', point 3)

3.2.6. Furthermore:

> 'The Community has many instruments which directly or indirectly influence energy policy and which have therefore to be used in a way consistent with common energy objectives.'
> (Point 24)
>
> and:
>
> 'The role of the Community is to place all its horizontal and/or sectoral instruments at the disposal of these objectives. This will ensure that the integration of the market can proceed while taking due account of the general interest.'
> (Point 67)
>
> and:
>
> 'Clearly, these policies have to be well devised by balancing the costs and benefits and taking account of these criteria in selecting policy instruments. In general, this will imply a reorientation towards a greater use of economic instruments as such instruments allow least cost solutions to be reached. There is a variety of economic instruments each of which is characterized by specifics such as: taxes and charges, tradeable permits, deposit-refund systems, technical regulations on consumption products and under certain circumstances, voluntary agreements.'
> (Point 78)

3.2.7. The ESC regards such instruments and the way they are used to implement energy policy objectives as a central problem in any energy policy, which raises the following questions:

3.2.7.1. What are the Community's 'many instruments' which directly or indirectly influence energy policy? For reasons of transparency, the ESC feels it is essential to draw up a list of these instruments with an indication of the responsibilities and powers involved.

3.2.7.2. What additional instruments are planned or considered necessary, such as the strengthening of economic and social cohesion?

3.2.7.3. To deploy the various instruments there must be an energy policy concept which is coordinated with the various EU policies. This in turn requires a clearly-defined division of responsibilities between the EU and the Member States in line with the subsidiarity principle.

3.2.7.4. In particular, there must be a clear statement as to who determines priorities among the various policies and who is authorized to deploy the various instruments.

3.2.7.5. Steps must also be taken to ensure that the different policies are coordinated within the Commission.

3.2.8. The ESC thinks that, in the interests of a transparent energy policy and subsidiarity, there is an urgent need to find a solution to these problems. This

[1] OJ No C 393, 31. 12. 1994.

would also help to prepare for the decisions to be taken at the Intergovernmental Conference on the need for additional instruments and/or a coherent institutional framework for energy policy.

Done at Brussels, 5 July 1995.

The Chairman
of the Economic and Social Committee
Carlos FERRER

Opinion on the proposal for a European Parliament and Council Decision establishing a Community action programme in the field of cultural heritage Raphaël

(95/C 256/11)

On 29 May 1995, the Council decided to consult the Economic and Social Committee, acting under Article 198 of the EC Treaty, on the above-mentioned proposal.

The Economic and Social Committee decided to appoint Mr Burnel as Rapporteur-General (Rules 20 and 50 of the Rules of Procedure).

The Committee adopted the following Opinion at its 327th Plenary Session of 5 and 6 July 1995 (meeting of 6 July) by a majority with one abstention.

I. GENERAL COMMENTS

1. By virtue of the type of institution it is, the Economic and Social Committee is fully qualified to tackle the issue of culture, since it is concerned about matters relating to society, interpersonal relations and the quality of life of the individual, the family and the community at large. It has produced a considerable amount of work demonstrating both its competence in this field and its concern.

Culture is one of the key aspects of citizenship [1]. It helps to determine the nature of every person and social group, and their relations with others.

Access to culture — and by the same token access to cultural resources and cultural heritage — is one of the rights enshrined in Article 27 of the Universal Declaration of Human Rights [2]. The diversity of approaches to culture and cultural realities must therefore be recognized and accepted as part of the richness of human life. This truth is applicable to the planet as a whole, the European Union and each of its Member States, although culture is influenced by a variety of factors [3].

Culture therefore finds expression in many different ways and through a variety of channels. Culture is indeed a manifold phenomenon incorporating a wealth of complementarity, in which freedom and respect for others are the predominant features.

Culture comprises a wide range of facets and expressions. The Committee therefore urges that the concept of 'cultural heritage' be interpreted in a broad and diversified way. In this connection we would draw attention to the definition adopted by UNESCO:

> 'For present purposes, culture may be defined as the combined spiritual, material, intellectual and emotional characteristics of a society or social group. In addition to literature and the arts it encompasses lifestyle, fundamental human rights, values, traditions and beliefs.'

It should also be pointed out that cultural activities sometimes require very substantial financial resources,

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[1] *Cf.* the Committee's work on the Citizens' Europe and the Conferences which it has held on this subject.

[2] 'Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.'

[3] *Cf.* the Committee's Opinion of 22 October 1992 on the Communication from the Commission: new prospects for Community cultural action (OJ No C 332, 16. 12. 1992).

the use of a wide range of professional skills; furthermore, they frequently involve enthusiastic activity within associations, cooperatives and trade unions which broadens the imagination and boosts solidarity between individuals and social groups.

2. The Committee therefore welcomes the Council's request for an Opinion. It is, however, a matter of regret that the deadline set under the second paragraph of Article 198 of the Treaty obliges the Committee to give its views within a very short time, even though it is able to draw upon its earlier work and opinions on this subject.

3. In its earlier Opinions on culture and, in particular, in the Opinion which it adopted on 22 October 1992 on the Communication from the Commission entitled 'new prospects for Community cultural action', the Committee put forward a number of observations which are as valid as ever:

3.1. The intentions which are expressed must be backed up by firm political resolution which is expressed with a vigour commensurate with the challenges which have to be met: these challenges have repercussions for cohesion, solidarity and understanding between peoples, social groups and individuals.

3.2. Projects must be provided with funding set at a level commensurate with the declared ambitions.

3.3. With the advent of European citizenship, the cultural dimension is crucial to mutual comprehension and harmony between people, cohesion between population groups and social categories, thereby constituting a vital bulwark against social exclusion, xenophobia and racism.

3.4. The political attitude to cultural activity must therefore be a matter of permanent concern to be catered for in all political, economic and social deliberations and decisions.

4. In this context and in the light of the abovementioned fundamental observations, the Committee approves the general tenor of the Raphaël programme.

5. In the light of its expertise in this field, drawn from its membership and its institutional role, the Committee highlights the potential contribution — both direct and indirect — which action to preserve our cultural heritage, can make to efforts to promote training and create jobs.

6. With a view to enhancing the programme's contribution to the affirmation of a European citizenship, the Committee urges that European citizens be briefed objectively and specifically on the EU's commitment to the conservation of the cultural heritage.

II. SPECIFIC COMMENTS

1. Articles 2 and 3 of the draft Decision set out the specific aims of the Raphaël programme and the planned action respectively.

The five specific objectives of the Raphaël programme are as follows: the development and promotion of cultural heritage, cooperation and the pooling of knowledge; improvement of access to heritage and the supply of heritage information to the public; the stepping-up of research and common practices; and cooperation with non-Member countries and competent international organizations.

The proposed five types of action are as follows: development and promotion of cultural heritage; networks and partnerships; access to heritage; innovation, further training and professional mobility; cooperation with third countries and international organizations.

2. These objectives and actions, coupled with the criteria set out in Article 4, represent a starting point which will have to be adjusted, flexibly and swiftly, in the light of the experience gained and any needs which emerge when the programme is being implemented. With this aim in view, the participation of all the parties involved will be of decisive importance, if only from the point of view of ensuring effectiveness.

3. The proposed cooperation with non-member countries and competent international organizations, in particular UNESCO and the Council of Europe, is a key plank of the proposed broad complementarity; it is crucial to ensure that the tasks to be achieved are properly allocated on the basis of qualifications.

4. Bearing in mind, on the one hand, the inadequacy of the proposed funding in the light of the issues at stake and the requirements (ECU 67 million spread over five years), and, on the other hand, the fact that EU action is designed to play a complementary role and to act as a catalyst for action by the Member States, the Committee calls for very special attention to be paid to aspects of our heritage located in areas with the lowest local sources of funding. Such action would demonstrate real solidarity and would acknowledge that cultural heritage has a universal value. Culture represents one of the building blocks of solidarity between human beings.

5. The Committee particularly endorses the Commission's concern to ensure that the proposed programme is both consistent with and complementary to other EU actions of relevance to cultural heritage, in particular those referred to in the Council's conclusions of 17 June 1994 on drawing up a Community action plan in the field of cultural heritage [1].

6. The Council has consulted the ESC on the Raphaël programme; logically, and bearing in mind the Com-

[1] OJ No C 235, 23. 8. 1994, p. 1.

mittee's role and the complementary nature of its membership and experience, the evaluation report provided for in Article 8 should be submitted to the Committee.

Done at Brussels, 6 July 1995.

The Chairman
of the Economic and Social Committee
Carlos FERRER