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*(Preparatory Acts)*

# ECONOMIC AND SOCIAL COMMITTEE

## Opinion of the Economic and Social Committee on the 'Proposal for a Council Decision on the conclusion, on behalf of the Community, of the Convention on cooperation for the protection and sustainable use of the Danube'

(97/C 66/01)

On 2 August 1996 the Council decided to consult the Economic and Social Committee, under Article 130s of the Treaty establishing the European 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 8 November 1996. The rapporteur was Mr Strasser.

At its 340th Plenary Session (meeting of 27 November 1996) the Committee adopted, by 94 votes to four, with two abstentions, the following opinion.

### 1. Introduction

1.1. At the CSCE environment conference (1989) the countries through which the Danube flows agreed to replace the 1985 Bucharest 'Danube Declaration' by a more effective and more binding regulatory instrument or to expand its regulatory content significantly. Austria played a leading part in this initiative and carried out important preliminary work for the negotiations (opened 1992, concluded March 1994) on the Danube Protection Convention. There are currently twelve parties to the convention (including the EU), six of which have already ratified it.

1.2. The convention marks a vital step forward in international environmental law. It was drawn up immediately after the conclusion of the ECE Convention on the protection and use of transboundary watercourses and its main points are based on that framework convention. It also meets the requirements set out by the ESC in its Opinion on the Commission communication to the Council and European Parliament on European Community water policy [1].

1.3. The Danube Protection Convention lays down detailed rules for an up-to-date water protection system. These rules are to be applied by the contracting parties themselves and — in line with international cooperation on other European river systems (e.g. Rhine and Elbe, or the bilateral agreement between Spain and Portugal on the Duero River) — by an 'International Danube Commission'.

1.4. The main areas regulated by the convention are:

— preventing, combating and reducing transboundary pollution;

— introduction of programmes to monitor the state of the river;

— adherence to the criteria of sustainable water management, i.e. environmentally sound development, especially in respect of the quality of life, conservation of resources, protection of eco-systems and prevention of environmental damage;

— cooperation on R&D into effective procedures for preventing, combating and reducing transboundary pollution;

[1] CES 1069/96, 25. 9. 1996.

— bilateral and multilateral cooperation on the basis of equal rights and reciprocity, above all by setting up joint bodies, without prejudice to existing conventions or agreements;

— obligation to inform the public about the state of the river.

The convention also includes an exchange of information between the contracting parties and an obligation to report immediately on any critical situation (setting up of warning and alarm systems). It may be expected that the specific provisions of the convention will lead the eastern European countries through which the Danube passes to align their future national legislation in the interests of a modern system of water protection.

1.5. Since the signing of the convention in June 1994, considerable progress has already been made on its interim implementation, on the basis of a ministerial declaration, and especially on the administrative and organizational groundwork. The International Commission has already drawn up its rules of procedure in accordance with the statute laid down in the convention.

## 2. Comments

2.1. The Committee shares the Commission's view that the rapid entry into force of the convention is highly desirable and therefore advocates speedy ratification by the EU. The convention is very important for external relations, economic and environmental policy. It is a major contribution to the process of European integration and will help to develop a sustainable economy and to protect natural and ecological resources in the Danube basin.

## 3. Additional comments

3.1. The Committee would point out that the accelerating deterioration of water quality in the lower reaches and estuary of the Danube is a particularly serious problem. One of the main reasons is that untreated waste water is often discharged into the Danube. The construction of purification plants will be a key element in tackling the worst of these unresolved problems. The 1991 international Danube environmental programme has an important part to play here.

3.2. In 1994, with the EU's support, a strategic action plan was drawn up to underpin the implementation of the convention. The Global Environment Facility (GEF), the World Bank and the European Bank for Reconstruction and Development have an important part to play in financing the necessary measures, alongside the EU's Phare programme.

3.3. To bring about a major improvement in the Danube as soon as possible, the Committee considers that optimum use should be made of existing aid instruments, and if necessary new instruments should be created, to finance specific water purification plants. Appropriate additional EU participation would be desirable. Here it should be borne in mind that six of the countries through which the Danube flows are seeking EU membership.

3.4. The Committee considers that the international Danube environment programme should be integrated into the convention as speedily as possible.

Brussels, 27 November 1996.

*The President*

*of the Economic and Social Committee*

Tom JENKINS

# Opinion of the Economic and Social Committee on the 'Proposal for a European Parliament and Council Directive amending for the third time Directive 88/344/CEE on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients'

(97/C 66/02)

On 17 October 1996 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 8 November 1996. The rapporteur was Mr Gardner, co-rapporteurs were Mr Colombo and Mrs Davison.

At its 340th Plenary Session (meeting of 27 November 1996), the Economic and Social Committee adopted, by 97 votes to three, with two abstentions, the following opinion.

## 1. Introduction

1.1. It is proposed that technical aspects of permitted solvents can be amended by Committee procedure. These technical aspects are limited to the use, conditions of use and maximum residues.

1.2. Two solvents included in Directive 88/344/EEC are proposed for deletion, because no toxicological data has been submitted by industry to the Scientific Committee for Food (SCF).

1.3. The residues of hexane in oils and fats produced by using this solvent are reduced from 5 mg/kg to 1 mg/kg because technical advances now permit determination of hexane at this lower level.

1.4. The addition of a new solvent is proposed which has been accepted by SCF for extraction of flavours. The residues of 1,1,1,2-tetrafluoroethane in flavours extracted from herbs and spices are extremely low. The solvent will be used in an ambient temperature process, thereby protecting the delicate flavours. This compound has a long history of use as a propellant gas for asthma inhalers.

## 2. General comments

The Committee approves the proposal.

## 3. Detailed comments

3.1. *Article 1.1*

3.1.1. This will enable technical amendments only, to be made by a Committee procedure rather than passing through a new Council directive for each amendment. The present procedure for amendment by a Council and Parliament directive is extremely time-consuming and is becoming increasingly difficult. A Committee procedure allows for timely application of technical changes following evaluations by the SCF.

3.1.2. On the other hand, the Committee procedure does not involve the citizens adequately. On balance, the Committee accepts the committee procedure, proposed by the Commission, but insists on prior consultation of the various socio-economic partners represented on the Advisory Committee for Food.

3.1.3. It must be emphasized that this amendment relates only to technical changes.

## 4. Article 1.2

The deletions and additions are in line with the findings of the Scientific Committee for Food and present needs of users.

Brussels, 27 November 1996.

*The President*

*of the Economic and Social Committee*

Tom JENKINS

# Opinion of the Economic and Social Committee on the 'Proposal for a Council Directive amending Directive 92/14/EEC on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Vol 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988)' [1]

(97/C 66/03)

On 17 October 1996, the Council decided to consult the Economic and Social Committee, under Article 84(2) of the Treaty establishing the European 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 8 November 1996. The rapporteur was Mr Boisserée.

At its 340th Plenary Session (meeting of 27 November 1996), the Economic and Social Committee adopted, by 101 votes to four, with five abstentions, the following opinion.

## 1. Introduction

1.1. Reducing aircraft noise has been an integral part of European Community environment programmes for many years; the aim is to protect people living in the vicinity of runways, while optimizing the use and allowing the expansion of airports, which are generally located near residential areas. Since 1980, the Community has, in conformity with the International Civil Aviation Organization (ICAO), enacted legislation designed to bring about a gradual reduction in aircraft noise. Noise of this kind can to all extents and purposes be eradicated only by using modern, low-noise aircraft.

1.2. The draft directive under discussion deals with subsonic non-military aeroplanes and jets (special arrangements apply to supersonic and propeller aircraft). The proposal follows on from the directive 92/14/EEC [2] of 2 March 1992, which bans the use in Community territory of aircraft which do not meet certain international noise abatement standards. The directive permits exemptions, but only until 2002 and these are practically confined to older aircraft operated by carriers from developing countries.

1.3. The draft directive formalizes, modifies and expands the provisions governing exemptions to the ban on aircraft used in Community territory.

## 2. General comments

2.1. The ESC endorses the draft directive.

2.1.1. Like the 1992 directive, the proposal strikes a compromise between the public interest and the interests of airports on the one hand, and, on the other, the interests of carriers from countries whose level of development leaves them no choice but to use older aircraft. The proposal clearly confirms the discernible trend towards phasing out the use of these aircraft in order to help reduce noise pollution significantly even before 2002.

2.1.2. While the Committee broadly backs the proposal, it would nonetheless make the following comments on individual provisions, leaving aside comments on drafting or clarification:

## 3. Specific comments

3.1. *Article 1(2)*

This provision seeks to curb, before 2002, the use of aircraft which are generally no longer licensed; in contrast to the parent directive, it offers greater flexibility and is better adapted to local conditions at airports.

The ESC therefore endorses the proposed measures.

3.2. *Article 1(6)*

The revised version of Article 7 of the 1992 directive seeks both clarification and simplification. The ESC assumes that the abolition of national authorities' discretion in respect of issuing licences will not, in practical terms, make it easier to operate aeroplanes which fall under this directive.

3.3. *Article 1(7)*

This proposal is designed to ensure that future amendments to noise abatement measures are coordinated in a consultative committee. The ESC is confident that this will not undermine its own involvement in the legislative process.

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[1] OJ No C 309, 18. 10. 1996, p. 9.
[2] OJ No L 76, 23. 3. 1991, p. 21; OJ No C 339, 31. 12. 1991, p. 89.

3.4. *Article 1(8)*

An important element of the draft directive is the revision of the lists of exempted aeroplanes. Amended lists were necessary since the previous version, appended to the 1992 directive, had become obsolete, either because the aircraft listed had been withdrawn from service or because, in 1992, certain carriers had not registered their aircraft for inclusion on the list, despite their obligation to do so under the directive. Broadly speaking, the ESC does not feel that the new list increases the number of exemptions.

3.5. *Article 2*

This Article enjoins Member States to introduce a 'system of penalties' for infringements of national provisions adopted under the directive, and to enforce these penalties. This provision may well represent an intrusion into Member States' legal systems. The ESC assumes that the term 'penalties' and the concept of enforcement also includes other means of combating aircraft noise, such as fines and administrative constraints. Otherwise, this section of the draft directive would not be in conformity with the legislation under the terms of the Treaty.

Brussels, 27 November 1996.

*The President*

*of the Economic and Social Committee*

Tom JENKINS

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**Opinion of the Economic and Social Committee on the 'Proposal for a European Parliament and Council Directive on the sale of consumer goods and guarantees'** [1]

(97/C 66/04)

On 1 October 1996, the Council decided to consult the Economic and Social Committee under Article 100 a of the Treaty establishing the European Community on the above-mentioned proposal.

The Section for Protection of the Environment, Public Heath and Consumer Affairs was asked to prepare the work and adopted its Opinion on 8 November 1996. The Rapporteur was Mr Ettl, Mr Folias the Co-Rapporteur.

At its 340th Plenary Session (meeting of 27 November 1996), the Committee adopted, by 106 votes to one, with five abstentions, the following opinion.

## 1. Introduction

1.1. The draft Directive seeks to establish a minimum degree of harmonization of national legislation on legal guarantees. It also lays down framework provisions for commercial guarantees, but does not seek to harmonize legislation in this field or in that of after-sales services.

1.2. Efforts to address problems consumers encountered with guarantees and after-sales services at European level have been going on for the past twenty years and have found expression in a whole range of Council resolutions and Commission action programmes. [2] The Commission Green Paper on consumer goods guarantees and after-sales services [3] sparked off a far-reaching consultation process on how the Community could possibly and advantageously take action in this field.

[1] OJ No C 307, 16. 10. 1996, p. 8.

[2] — Council Resolution of 14 April 1975, OJ No C 92, 25. 4. 1975, p. 1, and of 19 May 1985, OJ No C 133, 3. 6. 1981.
— Future priorities for the expansion of consumer protection policy, OJ No C 186, 23. 7. 1992.
— Three-year plan on consumer policy (1990-1992) COM(90) 98 final (1993-1995) COM(93) 378 final, Priorities for consumer protection policy (1996-1998) COM(95) 519 final.

[3] COM(93) 509 final.

1.3. In its Opinion on the Green Paper [1], the Committee considered that the approximation of provisions concerning consumer goods guarantees and after-sales services was a desirable step, but noted the problems to be faced. The Committee gave its broad backing to the gradual harmonization of minimum standards in the field of legal guarantees, but rejected the full-scale and obligatory harmonization of commercial guarantees.

1.4. The draft Directive now submitted is considerably less comprehensive than might have been expected given the time it took to draw up. In particular, the issues discussed within the Commission during the preparatory phase — a manufacturer's direct liability in cases of claims under the legal guarantee schemes, the explicit provision for liability for substandard durability and finally the entire spectrum of after-sales services — have been completely omitted from the draft Directive.

1.5. The Committee backs what the proposed Directive is seeking to achieve, namely to ensure that consumers buying a substandard product within the single market have a minimum corpus of rights. It agrees with the Commission [2] on how important it is to make progress quickly in the field of consumer goods guarantees, and recognizes that, in consumer terms, this represents an important step towards the completion of the single market.

1.6. The Committee also stresses the importance of the quality aspect which is closely linked to all the rules governing statutory and commercial guarantees. Clear arrangements, which meet consumer expectations, coupled with consumer goods guarantees which take account of the high standards of quality in Europe, help boost overall quality levels.

## 2. General remarks

2.1. For consumers, the single market can only be deemed to be functioning properly if, when buying goods in a Member State other than their own, they can be sure of a comparable degree of protection against faulty goods as they enjoy at home. The reports quoted by the Commission very clearly show that, as the law stands at the moment, many consumers are wary of purchasing items abroad for fear of encountering difficulties when exchanging them or having repairs carried out. This not only means that consumers are losing out on the advantages of the single market; suppliers too are unable to utilize all the opportunities offered by the free movement of goods.

2.2. To remedy this deplorable state of affairs, which has come in for particular criticism from consumer groups, legislation has to be harmonized on the basis of a Directive passed under Article 100 a of the EEC Treaty. It must be remembered that, while systems of private law are in many ways similar, they are each built on very differing concepts. Complete harmonization of legal and commercial guarantee systems therefore would not appear advisable, or indeed necessary to provide consumers with a minimum degree of rights. The Committee feels that harmonization should be limited to the core area of legal guarantees, particularly since these cannot be effectively covered either by international private law or by non-binding instruments such as recommendations or codes of conduct.

2.3. Given the number of national moves on reform, the Committee had also expected the Commission to come up with more innovative approaches in the proposed Directive. The Commission commentary on the draft Directive refers explicitly to developments in some Member States such as the United Kingdom, Greece and Finland only in respect of shortcomings in product durability and operational life, after-sales service and manufacturers' liability. The Committee would stress that arrangements concerning durability and service life, after-sales service and spares inventories could send out a clear signal to promote sustainability and resource conservation, and would also be in keeping with the Commission's aim of achieving long-term environmentally sound consumption patterns [3].

2.4. Rules on legal, and also commercial guarantees are designed to ensure consumers' money is well spent. Consumer goods, particularly durables, are investments which can only be shown to have 'paid off' in the buyer's household after years of use. This is recognized by many manufacturers and is used in advertising by, for example, stressing a product's durability or above-average resistance to wear and tear. The draft Directive, however, provides no remedies in cases where, after the legal guarantee period has expired, the advertisers' claim that a product is long-lasting is proved false. The Committee therefore would ask that the issue of durability be reconsidered.

2.5. Although, generally speaking, no contractual link exists between manufacturers and consumers, the decision to buy is often strongly influenced by consumer trust in a particular brand. However, the Draft Directive gives consumers no direct rights of redress against the manufacturer. The Committee is well aware of the

(1) OJ No C 295, 22. 10. 1994.
(2) Priorities in consumer policy (1996-1998) — COM(95) 519 final.
(3) Priorities in consumer policy 1996-1998, priority action 7.

problems which would arise if consumers were allowed to make direct claims against manufacturers — particularly as regards choice of method of redress; the example of individual Member States, where arrangements of this kind have already proven satisfactory, nonetheless demonstrates that these problems can be solved in a practical way. It is therefore proposed that, where the fault lies on the manufacturing side, consumers should be granted the right of recourse to either the manufacturer or his regional representative; this would be particularly important where, in the case of transboundary purchases, it is difficult for the consumer to contact the trader.

2.6. The Committee would stress that issues regarding legal and commercial guarantee arrangements and after-sales service should not be viewed in isolation as consumer problems alone, but considered part of the chain manufacturer-wholesaler-retailer. Greater attention must therefore be paid to relationships within the marketing chain, in particular, the unsatisfactory contractual or *de facto* situation in which retailers often find themselves with regard to their suppliers. The options open to retailers for gaining redress from the person in the marketing chain responsible for a defect is generally a crucial consideration in how far they are willing to go to find a solution acceptable to their customers.

2.7. The proposed Directive deals exclusively with the purchase of consumer goods, not with issues relating to legal or commercial guarantees for services.

## 3. Legal guarantee

3.1. In the draft Directive, the Commission has opted for a minimum level of harmonization affecting only a few core areas of legal guarantee, especially how defects are defined, the time limit set for the guarantee and legal remedies. It was decided not to include any other aspect of contract law or to attempt full-scale harmonization in the areas concerned.

3.2. The Committee Opinion on the Green Paper backed gradual harmonization based on a minimum corpus of rights across the Community. The Committee also rejected any dismantling or loosening of national arrangements. The Commission approach — rejecting full-scale harmonization in favour of a Directive laying down minimum provisions — is therefore to be welcomed.

3.3. The fact that the Directive has been significantly tightened up and that it is limited to a few core areas brings with it the danger that, in practice, both consumers and businesses will be unclear on important aspects of the text or that consumers will perceive the lack of a minimum degree of harmonization on these issues as a continued hindrance to cross-border shopping. This applies, for example, to issues such as the nature of guarantee time limits and the period in which claims must be made, or to the legal implications when the type of redress selected by the consumer does not lead to the defect being rectified. The Directive must address these issues in order to give consumers better access their rights.

3.4. The Committee is also pleased that the Commission has largely clarified definitions and removed a number of ambiguities which had already been criticized in the Opinion on the Green Paper. The definitions are pragmatic and easily understandable to consumers. The Committee takes the view that consumers should mean not only natural, but also legal persons (where these are not acting for economic gain or in a professional capacity) so as not to discriminate in the protection offered by the Directive.

3.5. The deliberations on how to define a defect were the subject of much controversy during the Green Paper consultation process. Consumers backed the more subjective approach, whereby one of the most important criteria was 'conformity with the consumer's legitimate expectations'. Suppliers however expressed many reservations on this point and these are broadly reflected in the proposed text. Article 2(2), which lists the criteria to be used to assess whether goods are in conformity with the contract, now omits any explicit reference to conformity with the consumers' legitimate expectations.

3.6. The first criterion listed in Article 2(2) to assess conformity with the contract is whether the goods comply with the description (of a sample or model) and are suited for a particular purpose which is either self-evident or described by the seller. The only further criterion is given in point d) of the same Article which lays down that the a good's 'quality and performance (must be) satisfactory given the nature of the good and the price paid and taking into account the public statements made about them by the seller, the producer or his representative.'

3.7. The Committee feels that the word 'satisfactory' is an inadequate criterion here, particularly since, obviously, minor defects would not be precluded. Generally, conformity with the contract can only be said to obtain if a good is delivered fully defect-free, unless the consumer agrees to accept a minor defect in return for a price reduction.

3.8. The Committee feels that the price paid for a good may only be used as a criterion for conformity with the contract as indicated in Article 2(2)d) where there are other indications that the quality of the good is in some way impaired (for example, if the goods are labelled as 'seconds'). If, however, two products are described in the same terms and the only difference is in price, consumers should not necessarily expect to have an inferior product merely because they paid less for it. Indeed, were the Draft Directive taken to its logical extreme, a retailer offering a product more cheaply would be deemed to be less liable under legal guarantee provisions than one selling the same product at a higher price. People tend to buy items abroad precisely because they are cheaper than at home, so the Commission proposal would, in practice, undermine the objective of the full-scale opening-up of the single market to consumers.

3.9. Unless explicit agreement is reached to the contrary or the seller corrects the statement [as provided for in the second indent of Article 3(2)], an obligation to ensure goods are in conformity with public information provided by the manufacturer (for example in advertising and labelling) would clearly meet consumer expectations since, in practical terms, consumers almost never distinguish between whether the information comes from the retailer or the manufacturer. An arrangement of this kind would also enhance fair trading practices since it would avoid liability being shifted back and forth to the detriment of the consumer. In the Committee's view, however, it should be clearly stated that the public information provided by manufacturers or their representatives pursuant to Article 3(2) is only to be viewed as information on product properties, not as general advertising information.

3.10. The time limit of two years set for the legal guarantee corresponds to the time limit set under UN law of sale and represents a compromise among the existing, very different time limits set in the Member States. This time limit would appear acceptable from the point of view of consumer protection, given that the objective here is to guarantee a minimum degree of harmonization. It is recognized, however, that the proposed two-year time limit is considerably longer than that provided for in some Member States. Since this limit applies to all products, the Committee feels that it would be wise to allow a certain degree of flexibility in contractual agreements (cf. Point 5.1).

3.10.1. The time limit of two years does not mean, as is often erroneously believed, that the goods must remain defect-free for the entire two-year period. Rather, it allows claims to be made within the space of two years for a defect which was present at the time of delivery, but could only be detected at a later stage. This arrangement would also remove the problem area of consumers having less substantive rights than traders in cross-boundary transactions. Traders who conclude with each other cross-border transactions within the scope of the UN Sales Law Convention are at present covered by a two-year time limit for the legal guarantee; consumers, on the other hand, often have a time limit of just six months or a year, depending on which national law applies.

3.10.2. The Committee notes that the time limit pursuant to Article 3(1), within a claim has to be lodged on a defect which was present from the outset, but only became apparent at a later stage, does not prejudice the time limits set for commercial guarantees. Unlike legal guarantees, commercial guarantees usually comprise all defects which arise within a certain period after buying the product, regardless of whether they were present at the time of delivery. A commercial guarantee covering defects for a period of, say, one year, remains an option under Article 5(1) provided the guarantor is also willing to fulfil the markedly less substantive obligations incumbent on him under the legal guarantee.

3.11. The time limit is deemed to begin when the goods are delivered. The draft Directive is worded in such a way that the time limit cannot be extended where goods are defective (i.e. developing a defect) at the time of delivery, but where, because of their nature, such a defect could only be determined at a later date. Practical problems arise, for example, where faulty design means that goods do not last as long as originally claimed.

3.12. Opinions differed within the Committee about the 'supposition' rule laid down in Article 3(3). Even where an arrangement of this kind has not yet been enshrined in the national law of the Member States, most companies interested in maintaining healthy relations with their customers already apply this principle on a voluntary basis. The Committee feels that the 'supposition' rule is not applicable where the 'defects' result from the normal use of the product or are in any other way incompatible with the physical characteristics of the goods. Since the legal guarantee only covers defects which were present at the time of delivery, the 'supposition' rule cannot apply where the 'defective' state of the product is the result of normal wear and tear. It must be recognized, however, that this arrangement may well result in a situation, during the first six months after delivery, in which retailers may experience difficulties in discharging the burden of proof. The Committee feels that consideration could be given to applying the 'supposition' rule only where the economic operator should normally be in a better position than the consumer to determine the existence or otherwise of a defect.

3.13. The issue of the options consumers should have regarding rights of redress was a matter of controversy in the consultations on the Green Paper. The Committee subscribes to the principle that consumers must be in a position to enforce their right to conformity with the contractual agreement as quickly and efficiently as possible. For this reason, it would be advisable to grant consumers the right to choose, where this is economically viable from the trader's angle, between the various different forms of redress. In individual cases, whether because of the particular characteristics of a product purchased or the specific form of sale, contractual agreements may be permitted, not least in the consumers' own interests, but also from an economic angle. The Commission should look into a possibility of this kind.

3.14. However, the Committee understands that an immediate rescission of the contract because of minor defects could, in individual cases, place an unjustifiable burden on the retailer. Nonetheless, giving Member States the option of excluding certain forms of redress for minor contractual infringements, as the draft Directive now proposes, would again encroach on the legal certainty of both consumers and sellers alike. The Committee therefore recommends that the Directive should determine which rights of appeal are to be allowed, including the case of minor defects. The Directive may, the first sentence of Article 3(4) indicates, allow all forms of redress, but admit the right to rescind on a contract may be admissible where the defects concerned are minor.

3.15. The draft Directive makes a strong distinction between the right to have a good repaired, and the right to have it replaced. Generally speaking, in the case of mass-produced goods, it is usually more advantageous for the consumer to have an item replaced rather than repaired (exchange of the defect item with one which is defect-free). Where Member States are to have the option of excluding certain forms of redress — as provided for by the last sentence of Article 3(4) — or certain types of contract, replacement should only be excluded in favour of repair whether this does not reduce the objective value of the good concerned.

3.16. The draft Directive makes no reference to what happens when a consumer claim is not met. This is a particularly important aspect in cases where a consumer initially makes a claim for repair, but no repairs are carried out by the seller. The consumer must have the right to demand rescission of his contract if repairs remain undone, even where delivery took place more than a year before.

3.17. Even where a company has made an unsuccessful attempt to repair the good, the consumer must retain the right of rescission even after the time limit set in the second sentence of Article 3(4) has expired.

3.18. The draft Directive also makes no mention of whether, after repairs have been carried out or the item replaced, the legal guarantee starts to run again . The objective assumedly is not to have a company repair an item continually until the guarantee expires, but for the consumer to have a defect-free good even after the guarantee has run out. Where a defect is removed, the time limit, at least for that particular defect, must start again from scratch. The Committee also feels that clarification is needed to ensure that the repair time is not deemed part of the time limit and that the repair is considered a contractual obligation to which other rules of contract law — such as national provisions for legal guarantees in services — also apply.

3.19. Another problem area left unaddressed by the draft Directive is the place at which the legal guarantee conditions are to be fulfilled. This is important when it is not possible to transport the goods easily, for example because they have been installed and can no longer be moved. The Committee believes that, for practical purposes, it would be useful if this issue were clarified in the draft Directive.

3.20. The Committee welcomes the provision of Article 3(5) which deals with who bears responsibility in the chain of contracts (right of recourse between the final seller and a previous supplier), and is designed primarily to ensure SMEs have a clear legal basis on which to work with suppliers. The wording remains obscure in two places though; firstly, the term 'responsible person' is not defined and, secondly, the extent to which the right of recourse may also be restricted by national legal provisions also remains unclear. The Committee feels that this right should not be restricted either by national legal provisions or by any contractual agreement. The binding nature of the arrangements designed to benefit consumers under Article 6(1) and (2) should also benefit final sellers exercising their right of recourse pursuant to Article 3(5).

3.21. From a consumer viewpoint, the obligation to notify the seller laid down in Article 4 poses a major problem, not least since the one-month time limit for notification does not start at the moment when the consumer actually detects the lack of conformity, but rather from the time when he ought normally to have done so.

3.22. The notification obligation is a transposition from UN purchase law, which, however, also stipulates

that a buyer (who in the eyes of UN purchase law is always classed as a retailer) has a duty to examine the goods in the tradition of the retail trade (cf. Article 38 of the UN Convention). In the case of consumer goods, however, in some Member States no such obligation exists and should not, as far as the Committee believes, be introduced in any binding way, even indirectly. It would be extremely unrealistic to expect every consumer to check each and every one of his purchases comprehensively and without delay; indeed in many cases, he is in no position to do so.

3.23. An obligation for the consumer to notify the seller is therefore only a sensible option for the period during which the time limit for 'supposed defect' is valid and where the burden of proof can be reversed, which, in the case of this draft Directive, is six months after delivery. Any plans to extend this obligation beyond six months should be dropped. In any case, a consumer who fails to notify the seller in time only weakens his own legal position since it is up to him to prove that a defect existed and that it has existed from the start; this becomes increasingly difficult with the passage of time. At most, the fact that a consumer failed to notify the seller of a defect should only restrict his rights under legal guarantee arrangements where this has had an effect on the defect (for example where the defect has worsened in a way which would not have happened had it been reported earlier).

## 4. Commercial guarantees

4.1. In its Opinion on the Green Paper, the Committee explicitly rejected full-scale harmonization of the commercial guarantee and noted the possibility of a code of conduct in this field.

4.2. The Commission has now decided not to proceed with a detailed harmonization of commercial guarantees and, in the draft Directive, has limited itself to two aspects alone: namely, the obligation that commercial guarantees must be more favourable than legal guarantees, and that basic procedural requirements must be met (these broadly cover existing good business practice).

4.3. The Committee backs the Commission approach. The idea of 'advantage' propound in Article 5(1) helps protects consumers from being misled and also enhances honourable trade practices. The obligation to provide a minimum level of legal guarantee once again enhances the status of the commercial guarantee not only merely as an advertising tool, but increasingly as a competitive tool.

## 5. Binding nature of the provisions

In the light of point 3.10 above, the following sentence should be added to Article 6(1) of the Draft Directive:

> 'This shall exclude agreements on the guarantee time limit in cases where, because of the particular properties of the good purchased, it would seem appropriate to limit the guarantee to one year'.

Brussels, 27 November 1996.

*The President*

*of the Economic and Social Committee*

Tom JENKINS

# Opinion of the Economic and Social Committee on the 'Green Paper from the Commission on Commercial Communications in the Internal Market'

(97/C 66/05)

On 13 May 1996, the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Union, on the 'Green Paper on Commercial Communications in the Internal Market'.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work, adopted its Opinion on 6 November 1996. The Rapporteur was Mr Simpson.

At its 340th Plenary Session (meeting of 27 November 1996) the Economic and Social Committee adopted the following opinion by 102 votes to three with five abstentions.

## 1. Introduction

1.1. The Green Paper on Commercial Communications is the outcome of a comprehensive review by the Commission, commenced in 1992, of the barriers, or distortions, in the functioning of the Internal Market which affect Commercial Communications. It contains proposals from the Commission designed to improve the position and seeks the views of the Economic and Social Committee and other interested parties on these proposals.

1.2. The proposals, which are outlined and discussed in later paragraphs, are aimed to codify, clarify and simplify the operation of the Internal Market with respect to the provision of Commercial Communications. The proposals are directed to the better functioning of the Internal Market: they would not alter the basic legal position established under the Treaty, particularly as set out in Articles 30 and 59. Equally, they do not affect the scope of the exemptions allowed to Member States by Article 56 of the Treaty.

1.3. The Commission also acknowledges the need to take account of the relationships with other Community policies and actions. It outlines an approach which should help the Commission to evaluate the problems of compatibility between Community Law and regulatory measures which exist in Member States. This should then provide a mechanism for the consideration of any relevant future legislative or regulatory changes being contemplated by individual Member States.

1.4. There is evidence of an increasing potential market for commercial communications which have relevance in more than one Member State. Advertising and brand marketing are only two of the potential areas of interest. National restrictions or differences in regulatory regimes can be a source of tension if they are regarded as unnecessary barriers to the functioning of the Internal Market. If the Commission takes no action, the expectation must be that it will receive an increasing number of complaints, where there are allegations of unjustified restrictions on the operation of the Internal Market, and there will be more frequent recourse to the European Court to determine the outcome.

1.5. The strength of the Commission argument for its initiative is that the present position is unsatisfactory, inefficient and uncertain. Reliance on the Court is itself a deterrent for some complainants and, when used, it is time consuming. It also leaves the Court to determine policy through the precedents of individual decisions. If administrative mechanisms existed which allowed the Commission to follow a considered systematically determined evaluative approach, this should facilitate quicker and more effective resolution of some questions. It might also aid the Court in determining those cases which are referred to it.

1.6. The term 'Commercial Communications' has been defined by the Commission as 'All forms of communication seeking to promote either products, services or the image of a company or organization to final consumers and/or distributors.'

1.7. It includes all forms of advertising, direct marketing, sponsorship, sales promotions and public relations promoting products and services. The scope is defined to include all enterprises including public and semi-public bodies, charities and political organizations. It has applications to printed, audio and televisual materials, including the rapidly expanding use of cable, telecom-

munications and satellites for the flow of information, marketing and distance selling.

1.8. In the evaluation of the Commission proposals it is important to acknowledge that, within the Internal Market, it is national regulations which must be examined to ensure that they conform with the Treaty: not vice versa. The principle of a freedom to supply services, of the types described as commercial communications, is already established.

If this freedom is to be constrained, the basic criteria which can now be codified following the principles and case law related to 'public interest' criteria, are that:

— the restriction is non-discriminatory between the providers from different States;

— there is a 'public interest' to justify the restriction;

— the restriction is proportionate to the justified objective.

The Commission has acknowledged that the complaints which it has received do not usually involve claims of discrimination because of the nationality of the provider of the services.

1.9. The justification of 'public interest' can take many forms including cultural factors, linguistic factors, protection of minors, consumer protection, moral codes.... etc. However, these methods of justifying national regulations are subject to examination, ultimately by the European Court, to ensure that they are not used as unacceptable indirect forms of discrimination.

1.10. Whilst the basic principles of the Internal Market as they apply to Commercial Communications can be readily summarized, because of the need to interpret these in situations where judgements must be made, their application is difficult and, inevitably, sometimes controversial.

1.11. It is possible to argue that the simplest principle on which to base policy might be that standards and methods of commercial communication which are allowable in the country of origin should also be allowable in other Member States, provided that they are in conformity with the Treaty, the Committee accepts that there are many defensible differences between the objectives of the national regulatory authorities. The principle of full mutual recognition is not consistent with the degrees of difference which are acceptable within the Internal Market.

1.12. In contra-distinction, it is possible to argue that in the field of commercial communications, Member States should be free to regulate according to national standards because there are so many cultural, linguistic and social differences. A completely laissez-faire approach would be an indirect means of allowing discrimination and would, in some cases, offend against the Treaty. Between these two contrasting positions, policy must be directed to an appropriate balance between the principles of the Treaty and the permitted protection of the 'public interest' by Member States.

## 2. The Commission Proposals

2.1. The Commission has invited comments on two wide ranging proposals. They are a pragmatic response to its extensive review of the position in each of the Member States which is briefly summarized in the Green Paper and supported by a Commission Working Paper [1].

2.2. The Committee welcomes the publication of the Green Paper as a useful method of outlining the problems, seeking comments from interested organizations and institutions, and debating possible improvements in the functioning of the Internal Market.

2.3. The evidence from the review is not reproduced in this Opinion. It includes differences in national definitions of 'misleading advertising'; differing legislation on permissible comparative advertising; differing rules on price advertising, discounts and dumping; the permissible forms of advertising by telephone or mail or through promotional devices; media restrictions (especially TV advertising and teleshopping); sponsorship restrictions; product restrictions (such as on tobacco, children's toys, pharmaceuticals, etc.) and other restrictions related to taste, decency, professional ethics, language and politics.

2.4. The proposals made in the Green Paper are not legal instruments but are tools seeking to help to improve the Commission's decision making on potential infringement cases or regulatory proposals. These are, of course, founded on the legal bases set out in the Treaty. For infringement cases, the legal basis is Article 169. For Community proposals, as is explained in Part I of the Green Paper, because the activity of commercial communications is regulated for various

[1] XV/9579/96 Working Document: Commercial Communications in the Internal Market.

objectives, these could be based on a number of legal bases (e.g. Articles 100a and 57(2) for the Internal Market, and Article 129 for health and consumer protection) depending on the relevant objective being pursued.

3. **The operational implications**

3.1. The first proposal outlines a framework for a methodology to be used in the assessment of whether national legislative or regulatory measures affecting Commercial Communications are appropriate and proportional.

3.2. The second proposal suggests (a) improved coordination and information at a European level through a combination of a system of notification, of existing and proposed national regulatory measures affecting commercial communications, to the Commission and (b) the creation of a representative committee, drawn from the Member States, to provide a forum to advise the Commission.

3.3. *Methodology*

3.3.1. The first proposal, for a methodology to deliver a more uniform assessment procedure of any restrictive national measures affecting Commercial Communications, is intended to combine the existing and developing jurisprudence with the provision of an agreed detailed impact analysis for particular cases. In essence, national restrictive measures must be likely to achieve the intended aim and must do so through restrictions which do not go beyond that which is the practical minimum necessary to achieve the objective. An agreed methodology would be helpful to the Commission and Member States in the framing of any proposed legislation or the introduction of new regulatory restrictions.

3.3.2. The methodology would be applied in two steps. The first would provide a factual overview of the possible effects of the measure using five key assessment criteria asking five critical questions. The second would apply the results of the assessment to the necessary decision on proportionality and/or coherence.

3.3.3. The five questions to establish the overview are:

A. What is the potential 'chain reaction' caused by the measure? (including the effect on users, suppliers and carriers, as well as the final consumer).

B. What are the objectives of the measure?

C. Is the measure linked to the objective?

D. Does the measure affect other objectives?

E. The efficiency of the measure (which raises questions about using the least restrictive means).

3.3.4. Having established the key characteristics, these five criteria should permit an assessment of proportionality, in relation to national measures, and consistency with respect to Community regulatory actions.

3.3.5. The Committee agrees that the introduction of this type of methodology would offer the prospect of a comprehensible and agreed assessment methodology which would reduce the ambiguity and/or uncertainty which prevails in its absence. It should serve a number of purposes. First, Member States and the Commission are more likely to better understand the motivation of each other and may be more likely to agree on the merits of decisions proposed by governments or the Commission. Second, the existence of the methodology may assist the European Court in deciding any cases referred to it.

3.3.6. There will be understandable concerns that the introduction of a methodology of this kind may not be 'policy neutral'. Some groups and associations have expressed concern as to whether adequate account will be taken of national regulations designed to offer protection to consumers and prevent unfair competition. Others question whether the effect will be to enhance the market opportunities for multi-national enterprises. Their worry is that the Commission may be able to give Internal Market considerations a higher priority.

3.3.7. These questions are natural. To reduce effective Community-wide consumer protection would not be acceptable. Also, any unfair advantage to multi-national enterprises would be a cause for criticism of the proposals. However, the Committee accepts that the methodology may offer the prospect of combining enhanced consumer protection with the opportunity for harmonisation of the practices used in commercial communications, if only by offering comparative and comparable information to each authority of key standards in Member States. Concern has been expressed that some large commercial organisations might gain increased market share and this might be capable of being abused. However, where this situation involves more than one Member State, the Commission already

has the duty to challenge any abuse of a dominant position. Within a Member State, the national competition authorities would have this responsibility.

3.3.8. The Committee has considered carefully the possible effects on businesses and consumers of the proposals to establish more firmly the Internal Market for commercial communications. Two particular issues seem critical to this process:

(i) the implications for business and consumers of the present incomplete Internal Market;

(ii) the possible economic implications of the Commission proposals.

3.3.9. The present incomplete Internal Market has the effect of discriminating against cross-border Commercial Communications. Whereas the single market for goods and many services has been established, market differentiation between Member States in the freedom to supply common brand support, generic advertising or sponsorship ideas is often constrained by differing national regulations. The question for resolution is NOT the removal of all national regulations, NOR is it necessary to harmonize every regulation. It is to test the hypothesis that such regulations are justifiable within the framework of the Treaty. To offer an objective method of achieving this goal should not be seen as a bias in favour of some businesses: rather it would be the removal of an existing bias against cross-border business in Commercial Communications.

3.3.10. The second issue concerns the potential benefit for all consumers, whether as individuals or businesses, and the economy in general, of the opening-up of this market. Whilst the overall benefit may be considered small, nevertheless, any change in the direction favoured by the Commission is likely to release certain economies of scale and encourage specialization.

3.3.11. Of course, the same argument also points to the conclusion that many providers of Commercial Communications in a constrained domestic market will face a more competitive market place. However, whilst some may view this as unfair competition, in reality, an increased intensity of competition after a degree of protection is reduced is not necessarily unfair. If this logic applied, the whole case for the creation of the Internal Market would be challenged. On behalf of consumers, and those who use commercial communications to get a message across, it must be acknowledged that the present market fragmentation is likely to produce higher costs per unit of sales or, as media market specialists might express the same idea, in terms of 'cost per thousand' contacts.

3.4. *Coordination and information*

3.4.1. The second proposal is to create the means to improve the flow of information and better co-ordination of actions and policies at the European level. The method proposed involves establishing a Community-wide consultative committee, using the committee as the forum for an exchange of information on current and new developments affecting commercial communications and, within the Commission, creating a contact point for information on commercial communication policies.

3.4.2. Within the consultative committee, using the agreed methodology, the Commission would have an opportunity to explain the problems arising from different national laws. Member States would consider the problems caused by the differences in their regulations. The committee could express an opinion on the issue of mutual recognition. The subsequent decision by the Commission on whether to proceed with a formal Community initiative, ultimately through the European Court, would then follow. The Commission would, however, have had the opportunity to discuss the issue with representatives from the Member States before invoking the infringement procedures. Also, there would be the possibility of holding anonymous discussions as a preliminary review procedure. These actions, in themselves, might lead to a reduction in the reliance on the infringement procedures provided in the Treaty.

3.4.3. An additional potential benefit would be the possible moves to harmonize, or reduce the differences in, the actions of Member States. A Member State which was involved in the evaluation of the proportionality of actions by another Member State would be influenced by this knowledge when considering any domestic changes.

3.4.4. Another factor which may enhance the convergence process in domestic regulation of commercial communications is the prospect that cross-border operations might become more flexible than domestic operations if the Member State is obliged to accept, for example, advertising actions from outside the Member State (because of Community decisions about (dis-) proportionate actions) which allow cross-border transactions on a basis which disadvantages domestic oper-

ators. Co-ordinated consultation by Member States through the proposed committee should help to avoid such anomalies. (See also paragraph 4.3)

3.4.5. The Committee welcomes the proposal for a form of co-ordination, co-operation and information exchange which is embodied in the idea of a consultative committee. If this proves effective it will reinforce the pragmatic efforts to give an acceptable basis for the Internal Market in Commercial Communications. If it proves inadequate, then the Committee envisages that the Commission may have to consider legislative action. This is acknowledged to be conceptually difficult within the constraints of the Treaty and taking account of the dramatic changes in the potential for cross-border commercial communications, particularly as information technology evolves.

3.4.6. The Committee welcomes the suggestion that Member States should notify the Commission and other Member States of proposals for new legislation or regulations affecting commercial communications. The practical arrangements should place on the Commission the obligation to circulate draft proposals from a Member State. Then they could be considered by the consultative committee. This procedure would be consistent with the recent Commission proposal for a Directive on notification by Member States of future draft rules and regulations on Information Society services [1].

3.4.7. The Green Paper gives little detail on the way in which the consultative committee would function and the composition of the membership. The Commission has suggested that there might be two representatives from each Member State. There is the usual conflict between making a committee adequately representative and yet maintaining a manageable size. Whilst the operational details can be determined at a later date, the Committee is concerned that a committee of two representatives from each Member State, alongside Commission representatives, might be less effective if there was no 'permanent' representative from each State, to ensure consistency and continuity.

3.4.8. The proceedings of the committee should be transparent. Relevant consumer groups, trade associations, service providers and other interest groups should have the opportunity to present their views to the committee and, helped by the transparency of the deliberations, be assured that these views have been adequately considered and taken into account.

[1] Commission Press Release IP/96/695.

## 4. Detailed comments

4.1. The definition of Commercial Communications suggested by the Commission is sufficiently comprehensive. However, the Commission acknowledges that commercial communications will sometimes relate to the activities of non-commercial organisations. In particular, the Committee acknowledges that many charities, or non-profit making organisations, make extensive use of commercial communications and that these are increasingly likely to affect their activities across the European Union. Presumably these organisations will be included in the general provisions outlined by the Commission.

4.2. As the spectrum of commercial communications widens with the expansion of satellite TV, cable television, internet communications, distance selling and on-line transactions, the ability of Member States to exclude, or constrain, certain commercial communication activities will diminish. The 'Television Without Frontiers' Directive has acknowledged the problems of regulation by Member States in comparable subject areas. Heavy reliance has been placed on broadcasts usually being acceptable if they conform with the regulations of the country of editorial control or transmission. Similarly, enforcement procedures are orientated to the place of origin of the broadcast. The Committee accepts that these developments will, themselves, create pressure for Member States to co-ordinate their regulatory regimes and welcomes the suggestion in the Green Paper that the impact of these technological developments will be an early consideration by the proposed consultative Committee.

4.3. An important aspect of any measures to regulate commercial communications within a Member State, or on a Community-wide basis, is an appreciation of the 'chain reactions' which may be created. The Working Document, prepared by the Commission (op. cit. Section E), examines the likely reactions for the commercial marketing of different types of goods and services in response to regulatory restrictions. This confirms, in analytical form, the experience of members of the Committee who have experience of the production and marketing of goods and services and also those who have examined the prospects from a consumer viewpoint. For many national regulatory measures there are therefore at least two differing elements to be considered. First, is the measure justified in the 'public interest' (as outlined

in paragraph 1.8)? Second, is the measure likely to create a 'chain reaction' which may have unintended consequences, may erode its effectiveness, or may further distort the provision of commercial marketing services? The Committee commends the examination of potential chain re-actions as an important part of the overview process outlined in para. 3.3.3.

4.4. The Commission acknowledges that one of the illustrations of the unsatisfactory nature of the present arrangements affecting commercial communications is the fact that, if the regulatory restraints in a Member State are judged to be disproportionate to an acceptable objective, then, the principle of mutual recognition may allow external commercial communications which 'offend' domestic regulations. If Community law allows this type of situation to increase in significance, then it will have a precedence over national actions and may indeed cause domestic concerns to demand changes in the domestic regulatory framework. Alternatively, this may create pressure for the Commission to find a more flexible working arrangement. The Committee acknowledges that in some Member States there is the potential for unpalatable decisions arising from the procedure on 'proportionality'. Nevertheless, the merits of the evolving Internal Market make it difficult to argue that the legal provisions embodied in the Treaty are an inadequate defence of domestic 'public interest'.

4.5. In the debate about the scope and appropriateness of Commission action, the Committee foresees a possible tension between the overall principles of the Internal Market, as determined by the general provisions of the Treaty and the particular impact of Article 129a (3) which allows Member States to introduce more stringent measures of consumer protection than are required by Community legislation. However, 'such measures must be compatible with this Treaty'. The scope of Article 129a may, therefore, be more restricted than is sometimes thought.

4.6. One of the possible complications in the opening of the Internal Market for commercial communications is the distorting effect of differences in national tax rates. Whilst such differences may lead to suggestions that 'imported' services should be deterred, the logical answer, within the Community, is that indirect taxation should be further harmonized and that, for sources outside the Community, efforts should be made to make imports amenable to appropriate taxation. With new distance selling methods, this may be easier to recommend than to implement.

4.7. In the consultations which were preparatory to the drafting of this Opinion, one of the criticisms voiced was that, whilst the Commission had taken a useful initiative in the preparation and publication of the Green Paper, there was a concern that the Commission was insufficiently active in the pursuit of some cases which it had already received so that they could be tested in terms of their objectives and the proportionality subjected to the scrutiny of the European Court. The Committee would be concerned if the evolution of the ideas in the Green Paper was used as a reason to delay necessary action on existing major complaints.

4.8. The Green Paper makes no reference to any exemptions on a de minimus basis. In the area of commercial communications such an exemption does not seem to be necessary.

4.9. A feature of the Green Paper is the decision of the Commission to bring together responsibility for Commercial Communications. The Committee agrees that there is a need to ensure a common approach within the Commission to these complex topics and commends the idea that one DG should be designated to carry a 'lead role' for the Commission. This arrangement has the advantage that consumer-protection issues, for example, can be considered in a setting where there is a broadly based overview of the many strands and products which may be affected. Other DGs also have critical contributions to make. However, whatever administrative arrangement is made, the critical factor is that the involvement of all the relevant DGs should be effective. One development, which may not have gained adequate explicit recognition in the Green Paper, is the opportunity for the Commission to extend its influence on the market for Commercial Communications through international negotiations. If the Internal Market can be effectively 'opened' then the case for easier access in international markets may be made more convincingly on a global basis.

## 5. Conclusions and recommendations

5.1. The Committee welcomes the publication of the Green Paper on Commercial Communications. It has drawn attention to a complex and difficult series of questions and it makes constructive proposals to improve the functioning of the Internal Market.

5.2. A balance must be found between (a) the requirements of the Treaty to open the internal market for the

supply of goods and services and (b) the protection of the public interest as allowed by the Treaty and found in many different forms of regulatory action within Member States. This balance must be achieved within a framework which is transparent and as objective as possible.

5.3. The first proposal for a methodology to deliver a procedure for a more uniform assessment of the proportionality of any restrictive national measures affecting Commercial Communications, is intended to combine the existing and developing jurisprudence with the provision of an agreed detailed impact analysis for particular cases. The Committee agrees that the introduction of this type of methodology would offer the prospect of a comprehensible and agreed assessment procedure which would reduce the ambiguity and/or uncertainty which prevails in its absence.

5.4. Any reduction in Community-wide consumer protection would not be acceptable. Also, any unfair advantage to multi-national enterprises would be a cause for criticism of the proposals. However, the Committee accepts that the methodology may offer the prospect of combining enhanced consumer protection with the opportunity for harmonisation of the practices used in commercial communications. As a result, this should also help to create more open competition between enterprises creating and supplying commercial communications.

5.5. The second proposal to create the means to improve the flow of information and better co-ordination of actions and policies at the European level involves establishing a Community-wide consultative committee. The committee will be useful as the forum for an exchange of information on current and new developments affecting commercial communications. Within the Commission, the intention is to create a contact point for information. The Committee welcomes these proposals. In addition, the Committee recommends that the Commission should ensure that each of the Commission Information Offices in the Member States is briefed and equipped to act as a contact point where information can be available to organisations which seek assistance on these questions and, where appropriate, can then gain access to the central contact point in the Commission. The Governments of the Member States might also consider parallel arrangements for subjects falling within national regulatory authorities.

5.6. There is a concern that a Committee of two representatives from each Member State, alongside Commission representatives, might be less effective if there was no 'permanent' representative from each State, to ensure consistency and continuity. Given this constraint, the proceedings of the committee should be transparent. Relevant consumer groups, trade associations, service providers and other interest groups should have the opportunity to present their views to the committee and, helped by the transparency of the deliberations, be assured that these views have been adequately considered and taken into account.

5.7. If this consultative committee, and the related actions, prove effective, it will reinforce the pragmatic efforts to give an acceptable basis for the Internal Market in Commercial Communications. If it proves inadequate, then the Commission may have to consider supplementary legislative action.

5.8. In particular, the Committee:

1) welcomes the suggestion that Member States should notify the Commission and other Member States of proposals for new legislation or regulations affecting commercial communications;

2) accepts that recent developments in Information Technology and new broadcasting technologies will create pressure for Member States to co-ordinate their regulatory regimes and welcomes the suggestion in the Green Paper that the impact of these technological developments will be an early consideration by the proposed consultative committee;

3) commends the examination of potential chain reactions as an important part of the overview process (as outlined in paragraph 3.3.3).

5.9. The Committee would be concerned if the evolution of the ideas in the Green Paper was used as a reason to delay necessary action on existing major complaints.

5.10. The Committee supports the action of the Commission in bringing together, within a designated DG, responsibility for giving an overall lead for the Commission on Commercial Communications. This change should ensure a common and consistent approach to this complex topic.

5.11. The Committee acknowledges that in some Member States there is the potential for unpalatable

decisions arising from the procedure on 'proportionality'. Nevertheless, the merits of the evolving Internal Market make it difficult to argue that the legal provisions embodied in the Treaty are an inadequate defence of domestic 'public interest'. In the debate about the scope and appropriateness of Commission action, the Committee foresees a possible tension between the overall principles of the Internal Market, as determined by the general provisions of the Treaty and the particular impact of Article 129a (3).

Brussels, 27 November 1996.

*The President*
*of the Economic and Social Committee*
Tom JENKINS

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**Opinion of the Economic and Social Committee on the 'Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the Competitiveness of subcontracting in the textile and clothing industry in the European Union'**

(97/C 66/06)

On 30 May 1996 the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 November. The rapporteur was Mr Malosse.

At its 340th Plenary Session (meeting of 27 November 1996) the Economic and Social Committee adopted the following opinion by 105 votes in favour, with one dissenting vote and five abstentions.

## 1. Introduction

1.1. The Commission's Communication, is in line with the action programme to promote the competitiveness of European industry (COM(94) 319 final), and was drawn up in response to a request from the Industry Council on 28 March 1996. It was a wise choice to address this field since, by virtue of the number of jobs it provides, the textile and clothing industry is one of the most important industrial sectors in the EU and one which is particularly affected by the problem of loss of competitiveness. It is estimated that the EU shed over 800 000 jobs between 1988 and 1995 in this sector, according to the ETCO (European Textile and Clothing Observatory).

1.2. In this sector subcontracting plays a major role. It is perfectly appropriate to attach special importance to subcontracting as it mainly involves small businesses and cottage industries which are a major source of employment. The Commission estimates at 650 000 the number of people working in subcontracting in the textile and clothing industry, to which should be added approximately 150 000 undeclared workers (probably a considerable underestimate of the true figures).

1.3. Subcontracting has an important role to play in the textile and clothing industry as it makes it possible to achieve the necessary flexibility. Attention should be drawn to the differences between the textile industry and the clothing industry; in the case of the former industry, subcontracting work may involve high technology, whereas the latter industry mainly entails making-up garments, an activity traditionally carried out by workers. A further point to be mentioned is that subcontracting work in the textile and clothing industry is often concentrated in upland areas, rural areas or depressed urban areas. The gradual disappearance of such activities would only aggravate the problems existing in the field of land-use planning and economic and social cohesion.

1.4. At a time when the sector is largely characterized by relocation and globalization, it must be remembered that subcontracting is of key importance in preserving a complete, structured industry. The chain begins with product processing, including processing raw materials (natural materials such as cotton, wool, and linen, etc.) then come spinning, weaving and bleaching, and processing of man-made fibres (synthetic and artificial), which brings in the textile machinery sector; finally there is the immensely varied clothing industry, ranging from fashion to *haute couture*, and mass to cottage-scale production, and, last of all, the distribution branch.

1.5. Throughout the whole sector, there is growing evidence of a feeling of 'solidarity' between the various players — including specialist distributors — who feel that there comes a point where relocation and globalization must be checked, and that if a 'link in the chain' disappears from Europe, it could be to the detriment of the sector as a whole.

1.6. Eighty per cent of workers engaged in subcontracting activities in the clothing industry in the EU are women and the crisis facing this sector has particularly serious social consequences for the female workforce.

1.7. In this connection, the contribution of the Economic and Social Committee could serve as a guide for the Commission, Council, European Parliament, Committee of the Regions and the 'competitiveness' working party set up by the EC Commission on the occasion of the textile and clothing forum held on 19 June 1996. The survival of this sector in the EU is in the balance; the considerable social and industrial implications of this situation make it an issue of vital importance to society.

## 2. Appraisal of the Commission proposals

### 2.1. *Analysis of the situation*

2.1.1. The analysis presented by the Commission broadly coincides with the views of the members of the Committee; attention is drawn in particular to the following phenomena: the internalization of production, relocation to low-wage countries, the increased power of major distributors, the impact of computerization and undeclared work.

2.1.2. In the Committee's view, however, a number of other points should be added to the Commission's appraisal:

a) a high level of inter-dependence between subcontracting and the sector as a whole. A global strategy for the whole sector is essential;

b) a distinction should be drawn between subcontracting in the textile industry, which is frequently efficient and capital-intensive, and subcontracting in the clothing industry, which is labour-intensive and still very slow in taking on board technical progress;

c) the widespread difficulties encountered by this sector in endeavouring to gain access to non-EU markets, whereas EU markets, for their part, are to a very large extent open markets;

d) A more detailed analysis of the size-related problems facing small and medium-sized enterprises (e.g. access to training or information);

e) An analysis of trends in the sector's inward and outward processing traffic, and the lessons to be learned from this.

### 2.2. *Subcontractors' operating strategies*

2.2.1. In the light of the abovementioned realities, the Commission identifies several types of operating strategies, namely the following rationales: response and flexibility; expertise and know-how; services; and costs.

2.2.2. The Committee does not believe that there are grounds for opposing the above-mentioned rationales. The rationales should complement each other; the costs rationale — particularly in the field of subcontracting — is one of the inescapable economic laws albeit not the only one. In the Committee's view, subcontractors are endeavouring to adopt these rationales; a genuine European strategy should ensure that they are provided with the best possible conditions for succeeding in this venture.

2.2.3. With regard to the 'costs' rationale, the Committee considers that the EU should carry out a root-and-branch appraisal with a view to ensuring that its workforce is competitive. It is a fact that, at the present time, in the majority of the EU Member States taxes and social charges are brought to bear mainly on the labour factor, thereby penalizing employment and enterprises and encouraging the use of undeclared workers often under unacceptable working conditions. Fiscal measures designed to promote corporate investment in training and qualification, particularly for women workers, would, on the other hand, help to improve the competitiveness of European industry and to curb the trend towards the relocation of industry. At European level, in the sectors concerned, including SMEs, measures to promote a flexible reorganization of working hours (e.g. methods of calculating working hours) would also help to boost competitiveness.

2.3. *Factors for improving competitiveness*

2.3.1. In its Communication the Commission rightly insists on innovation, information, know-how and cooperation between firms as factors in boosting competitiveness.

2.3.2. The Committee wishes to highlight in particular the following factors:

a) securing improved qualifications, upgrade the skills of those involved in the sector: employees, heads of enterprises, craftworkers and the self-employed, by providing easier access to training and information programmes;

b) improved access to technical progress and modern means of communications, e.g. in the field of teleworking, in order to enable workers to continue to work at home or in small units based in regions which are not readily accessible;

c) diversification, which gives further added value to production; diversification could be carried so far as to include the making-up of finished products, using methods such as franchising to acquire access to designs or brand names, thereby making it possible to market the product;

d) sectoral measures applied on a voluntary basis and in a spirit of cooperation, which involve small and medium-sized distributors. These measures include a pricing policy designed to enable these distributors to compete with their large rivals;

e) measures to promote quality control and make expertise available which, when combined with the skills of their labour force, may help European subcontractors to offer considerable 'cost-quality' advantages over their competitors in developing countries where these standards are frequently less high;

f) measures to strengthen the partnership between subcontractors, in order to promote regrouping and the exchange of know-how and products. This partnership should include middle-men, who in some Member States play a vital role, so as to raise the profile of subcontractors' work in their dealings with the manufacturer. In addition, provision should be made for subcontracting grants;

g) encouraging manufacturers to establish a more balanced relationship with subcontractors, in a spirit of partnership. This relationship should be underpinned by a set of criteria, ensuring a more level playing field for the partners, and include a code of conduct covering payment deadlines, the duration of contracts, the provision of training for men and women, and exchanges of know-how, in return for commitments by subcontractors in respect of quality and delivery dates. This set of criteria could draw on existing or future national legislation and preferably be rooted in voluntary professional agreements;

h) there is a need to provide greater access for EU products to the markets of non-EU states; this raises the issue of the consistency of the EU's external policy with its policy on industrial competitiveness. In view of the fact that the EU generally adopts a more open approach to external trade than is the case with its main trading partners, the Committee takes the view that the EU could legitimately give greater priority in future trade negotiations to the opening-up of the markets of non-EU states than to opening-up its own markets. The Committee wishes the mechanism for monitoring trade agreements to be implemented effectively, and EU small and medium-sized enterprises to be provided with easier access to trade-defence arrangements, including the possibility of introducing more automatic sanctions in the event of infringements;

i) greater attention should be paid in the multilateral context of the WTO to measures to combat: fraud; dumping; the production of counterfeit goods; and the import of goods produced under conditions which flout EU social and moral principles and International Labour Organization regulations, e.g. with regard to forced labour in prisons, the exploitation of children, the lack of freedom to joint a trade union, and non-compliance with the basic rules governing the protection of the environment. The production of goods under such circumstances is a scourge on the sector as a whole and subcontracting in particular;

j) undeclared work should be curbed by upgrading jobs and qualifications.

2.4. *Action to promote competitiveness*

2.4.1. In the first section of this chapter of its Communication, the Commission lists the instruments at its disposal (the Structural funds and training programmes) and which do not specifically apply to the textile/clothing sector. The Committee would point out that, generally speaking, these instruments are not readily available to SMEs and they lack transparency. The Committee deplores, for example, the fact that it is so difficult to make use of EU training measures — a key element in ensuring the competitiveness of this

sector. The Committee also notes that the Commission is unable to identify the support earmarked for the textile/clothing sector under these funding provisions.

2.4.2. The Committee takes the view that the action programme to assist SMEs, managed by DG XXIII, could play a very useful role in meeting the requirements which have been defined, e.g. as regards cooperation between SMEs in the single market. It would, however, express its concern at the possibility of cuts being made to the — already modest — allocations set aside for this programme in the period 1997-1999 (ECU 180 million). In the Committee's view, the proposed pilot scheme, set out in the second integrated programme, for financing joint ventures between SMEs in the EU, is an interesting development. The Committee calls for priority to be given to the textile/clothing industry when determining the eligibility of industries to take part in this pilot scheme.

2.4.3. In the second section of this chapter of its Communication, the Commission sets out the instruments specifically designed to assist subcontractors in the textile/clothing industry. The Committee recognizes the importance of the proposed measures in areas such as promotion (fairs and trade shows), training, and cooperation between manufacturers and subcontractors. The proposed budget for these measures is very small (ECU 150 000 in 1996, plus ECU 32 000 to cover meetings expenses); in the light of this and bearing in mind the need to respect the principle of subsidiarity in this field, the Committee calls upon the Commission to provide it with a more detailed programme setting out:

a) a three or four year timetable detailing the measures to be achieved;

b) further details with regard to the way in which these measures are to be financed (which could include participation by the Member States and the subcontractors themselves);

c) supporting innovatory measures, which could be financed from the funds available under existing programmes; examples of such measures are the interlinking at EU level of technical centres for providing information on new techniques, and joint campaigns aimed at growth markets such as Japan, the US and the Gulf States;

d) measures to provide back-up for cooperation among SMEs (e.g. pilot projects to establish joint fashion design structures, and distribution methods ensuring greater added value).

## 3. Resolutions and conclusions

3.1. Recognizing the importance for the EU to continue to have a successful textile and clothing industry which generates both wealth and employment;

3.2. recognizing the role played by subcontracting in the EU, which is a source of flexibility and an essential component of the sector, besides providing an alternative to relocation outside the EU;

3.3. recognizing the key importance of textile and clothing subcontracting in the social and economic fabric of many EU countries, by virtue of its role in land-use planning, and of the tens of thousands of one-man businesses and cottage-scale firms involved in the sector;

3.4. recognizing the major assets possessed by EU industries: the quality of the labour force, creativity, innovation and technological performance and the high reputation of European fashion;

3.5. recognizing the imbalance in subcontractor-manufacturer relations, to the former's disadvantage;

3.6. the Committee acknowledges the justification for a Commission Communication on the competitiveness of subcontracting in the textile and clothing industry;

3.7. the Committee is, however, concerned about the lack of ambition displayed by the Commission in its Communication, which fails to draw the logical conclusions from its observations, namely the need to:

3.7.1. have the EU and its Member States carry out an appraisal of the necessity to cease the practice of imposing the lion's share of taxation and social charges on employment;

3.7.2. revise the goals of external trade policy in order to make the opening-up of the markets of non-EU states the first priority before consideration is given to any further opening-up of EU markets;

3.7.3. ensure that, in accordance with the stipulations of the WTO and ILO, international trade is indeed governed by international rules outlawing dumping, the production of counterfeit goods and the exploitation of children and prisoners, the lack of trade-union freedoms and non-compliance with regulations governing the protection of the environment; these rules should also be backed up by effective monitoring and sanctions;

3.7.4. enforce Community trade safeguards effectively by introducing simplified access procedures for SMEs and a system of automatic penalties for offenders;

3.7.5. reorganize subcontracting relations to strengthen the SMEs' position vis-à-vis manufacturers;

3.7.6. encourage cooperation among SMEs, including small traders, so as to promote liaison between the conduits of European fashion and, where appropriate through a policy of offering high quality products at competitive prices, enable SMEs to compete more effectively with imports and defend their interests vis-à-vis major retail chains;

3.7.7. put forward a costed plan of action, backed up by a multi-year timetable and pilot schemes at EU and national levels, with a view to improving the qualifications of the workforce, speeding up the introduction of new technology, in particular information technology, and facilitating cooperation between SMEs, including retail outlets, and relations between manufacturers and subcontractors;

3.7.8. ask the EU Council to further the priority given to SMEs by providing the programmes specifically targeted at SMEs with the necessary funds to enable them to have a real, rather than symbolic, impact;

3.7.9. give real priority to SMEs in the operation of the EU structural instruments (e.g. the European Social Fund) by giving management responsibilities to professional organizations or chambers of commerce in touch with enterprises and their needs, in particular through the global grant procedure;

3.7.10. provide the European Union with a proper financial instrument, as suggested in the second integrated programme for promoting partnership between small and medium-sized enterprises within the EU; it should be noted that such instruments exist for partnership arrangements with third countries (ECIP, JOP).

3.8. The Committee welcomes the proposal to set up a group on subcontracting in the textile and clothing industry, bringing together European and national representatives of the industry and trade unions. The Committee will contribute in its capacity as permanent monitor of the European internal market. Part of the group's remit could be to work out improved contractual relations within the sector. The Committee is in favour of enlarging this group in the light of the matter under discussion, to include representatives of the parties concerned, such as distributors or consumer associations.

Brussels, 27 November 1996.

*The President*

*of the Economic and Social Committee*

Tom JENKINS

# Opinion of the Economic and Social Committee on the 'Proposal for a Council Regulation amending Council Regulation (EEC) No 684/92 on common rules for the international carriage of passengers by coach and bus'

(97/C 66/07)

On 13 June 1996 the Council decided to consult the Economic and Social Committee, under Article 75 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 11 November 1996. The rapporteur was Mr Ghigonis.

At its 340th Plenary Session on 27 and 28 November 1996 (meeting of 27 November), the Economic and Social Committee adopted the following opinion by 103 votes in favour, with one dissenting vote and three abstentions.

## 1. Commission Report

Article 20 of Regulation 684/92 [1] provides that the Commission shall report to the Council before 1 July 1995 on the application of the regulation. This report comments on the types of services and discusses the problems connected with interpreting the various provisions. The same article provides for the presentation to the Council, by 1 January 1996, of a new proposal for a regulation concerning simplification of procedures, including — in the light of the conclusions of the report — the abolition of authorization. This report, and the new proposal, were published on 10 May 1996.

## 2. Thrust of the new proposal

2.1. The purpose is to simplify and clarify services and administrative procedures, to optimize management of transport activities and the use of vehicle fleets, open up new opportunities for carriers and create new jobs.

2.2. Abolition of the category of shuttle services and residual occasional services.

2.3. Liberalization of all occasional and special regular services, as well as all own-account transport operations.

2.4. Facilitating the operation of additional vehicles in international regular services.

2.5. A new definition of 'urban carriage in frontier areas' has been introduced. Such transport is no longer regarded as a special regular service but as a special case of regular service.

2.6. Improved wording of the definition of occasional transport services.

2.7. Introduction of the 'Community coach licence', to replace the various authorization models introduced by Member States for international carriage purposes.

2.8. Amendment of the procedure for application and granting of authorization, with specific reference to the information to be provided by applicants, consultation between Member States and the conditions governing refusal. Competition with rail transport is no longer grounds for refusing authorization for international regular services.

2.9. Extension of certain time limits for consultation between Member States and intervention by the Commission in the event of dispute.

## 3. General comments

3.1. The Committee has studied with keen interest the Commission's report on the application of Regulation No 684/92 and the new proposal for an amendment thereto. It welcomes the drive to clarify and simplify the existing rules.

3.2. Though the Committee fully supports the creation of new jobs in the transport sector, it feels that liberalization could result in cut-throat competition which could easily lead to a drop in prices, bankruptcy and hence increased unemployment.

3.3. The Committee is also aware of the potential opportunities that an increase in bus and coach carriage could provide in transport-related industries.

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[1] OJ No L 74, 20. 3. 1992, p. 1; OJ No C 356, 31. 12. 1987, p. 62.

3.4. Similarly, the liberalization of bus and coach passenger transport will benefit EU citizens by facilitating mobility and their free choice of modes of transport.

## 4. Comments on the legal provisions

4.1. The new definition of 'urban carriage in frontier areas' is an important change, giving a more accurate reflection of the true nature of this type of carriage — which is a special case of regular services open to all passengers rather than special regular services.

4.1.1. The Committee supports the retention of the conditions laid down for access of this type of carriage to the market.

4.2. In the Committee's view, the abolition of the shuttle services category is a welcome streamlining of types of services which will improve transparency and facilitate the major role played by inspectors. However, it observes that the decision to abolish this category is largely based on the low demand for authorization of shuttle services without accommodation as well as the many points in common between this type of service and regular services. It feels that the Commission could also have taken account of the situation regarding shuttle services with accommodation before reaching a final decision.

4.3. The new definition of occasional services is a significant improvement. The Committee notes, however, that two types of occasional services are mentioned: those that are to be liberalized and those to require authorization. In the Committee's view, the difference between the rules governing market access for each of these two categories should be clarified.

4.4. Own-account transport operations are not restricted to those carried out 'for non-commercial purposes' yet the definition does not cover all services concerned and only operations 'for non-commercial purposes' will be governed by the proposed provisions. The Committee therefore finds it necessary to retain an authorization procedure for other own-account transport operations in addition to those defined in the proposal to avoid any unfair competition with carriers working for another party.

4.5. The Committee welcomes the idea of a Community licence as part of the drive to harmonize and simplify travel documents, reduce the number to be kept on board the vehicle and facilitate inspection by the competent authorities.

4.5.1. Since the Community licence will be required only for carriers seeking access to the international market and no specific reference is made in the new provisions, the Committee is in favour of clarifying this point.

4.5.2. To regularize the situation of carriers already authorized to undertake international carriage of passengers by bus and coach under the existing regulation and to facilitate transition to the new Community licence system, the Committee would propose that transitional measures be introduced by the Member States in conjunction with the Commission.

4.6. In connection with the report on the application on the current regulation, the Committee takes note of problems regarding the application and interpretation of the procedure for granting authorization, with particular reference to the wording 'undertaking that manages' an 'association of undertakings'. Though the authorization is drawn up in the former's name, that does not confer on it additional rights or advantages compared with the other undertakings granted authorization as part of an association. Further, its obligations are neither defined nor specified. In the Committee's view, the term 'undertaking that manages', despite the fact that it clearly determines the holder of the original authorization document, could be deleted.

4.7. The Committee observes that new provisions are proposed for the operation of additional vehicles used for regular services. These seek to cancel the procedure for renewal of authorization and replace it by the obligation to keep on board three travel documents indicating that it is an additional vehicle. However, the Committee feels that some control over the operation of additional vehicles should be retained and proposes that the proposal be amended to this effect.

4.8. It notes that 'the authorization procedure' has been substantially amended to place greater emphasis on the possibilities of granting authorization than on refusal. Here the Committee is pleased to see that competition with rail transport is no longer considered to be grounds for refusing authorization for international regular services. Despite this improvement, the Committee would stress the need to press ahead with harmonization of terms of competition between modes of transport in areas where unequal treatment persists.

4.9. The Committee observes that international occasional services will no longer be able to undertake local excursions since these are cabotage operations. This change will clearly be detrimental for carriers. In some matters carriers will be bound in such operations by the legislation, regulations and administrative provisions

governing cabotage in each Member State despite the fact that these are not necessarily harmonized and could cause additional bureaucratic constraints. To facilitate procedures, the Committee feels that such constraints should be kept to a minimum and proposes that international occasional services should continue to be able to operate local excursions, solely when these excursions are carried out at the end of such services.

4.10. Compliance with Community and national rules in the field of international carriage of passengers by bus and coach — in particular rules governing driving and rest time and roadworthiness tests — is vital both to ensure passenger and vehicle safety and to guarantee fair terms of competition and prevent illegal services springing up. The Committee therefore welcomes the provisions on inspection which have been added in the new proposal.

4.11. The Committee is particularly aware of the importance of coach passenger safety and the necessity of providing full safety information during the journey, especially international long-distance journeys. The Committee feels that safety must be guaranteed as effectively as possible and urges the Commission to take this factor into account when finalizing the present proposal and preparing future initiatives in the sphere of international carriage of passengers by road.

## 5. Proposed amendments

| Text of proposal | Wording proposed by the ESC |
|---|---|
| | *Article 3 — Insertion of a new point 1* |
| | 1. The international carriage of passengers by coach and bus shall be carried out under a Community licence. |
| *Article 4 — Point 1* | *Article 4 — Point 1* |
| 1. Occasional services as defined in Article 2(3.1) shall not require authorization. | 1. Occasional services as defined in the first subparagraph of Article 2(3.1) shall not require authorization. |
| *Article 6 — Point 1* | *Article 6 — Point 1* |
| 1. In the second subparagraph of paragraph 1, the words 'or a shuttle service' are deleted. | 1. The second subparagraph of paragraph 1 is replaced by the following:<br>'In the case of an association of undertakings for the operation of a regular service, the authorization shall be drawn up in the name of all the undertakings. It shall be delivered to the undertaking having lodged the application for authorization, along with a certified true copy to the other undertakings. The authorization shall indicate the names of all the carriers'. |
| *Article 6 — Point 5* | *Article 6 — Point 5* |
| 5. A new paragraph 6 is inserted:<br>'6. In the case of additional vehicles being used for existing regular services, a copy of the corresponding contract or document between the operator of the regular service and the carrier providing the additional vehicles and a copy of the authorization of the regular service must be carried on the vehicle.<br>A carrier providing additional vehicles must hold the Community licence provided for in Article 3(a). A true copy of the Community licence must be carried on the additional vehicle'. | 5. A new paragraph 6 is inserted:<br>'6. In the case of additional vehicles being used for existing regular services, a copy of the corresponding contract or document between the operator of the regular service and the carrier providing the additional vehicles and a copy of the authorization of the regular service must be carried on the vehicle.<br>A carrier providing additional vehicles must hold the Community licence provided for in Article 3(a). A true copy of the Community licence must be carried on the additional vehicle.<br>A carrier providing additional vehicles must notify any change in the number of vehicles in operation to the authority issuing the licence. This authority shall notify the other Member States of this change.' |

| Text of proposal | Wording proposed by the ESC |
|---|---|
| *Article 12* | *Article 12* |
| Article 12 of Regulation 684/92 is deleted. | Article 12 of Regulation 684/92 is amended as follows:<br>'Within the framework of an international occasional service, a carrier may carry out occasional services (local excursions) in a Member State other than that in which it is established.<br>Such services shall be intended solely for non-resident passengers previously carried by the same carrier on one of the international occasional services mentioned in the first subparagraph and must be carried out with the same vehicle or another vehicle from the same carrier or group of carriers.' |
| *Article 13* | *Article 13* |
| Article 13(2) is deleted. | Delete.<br>New article (to be inserted between the current Articles 14 and 15)<br>Article 17 of Regulation 684/92 is amended as follows:<br>'1. The Member States shall, before 1 June 1997 and after consulting the Commission, adopt the measures necessary to guarantee that carriers of passengers by bus and coach which received authorization, prior to 31 December 1996, under Article 3 of Regulation 684/92, to undertake the international carriage of passengers by bus and coach comply with the provisions relating to the Community licence, as from 1 January 1999.'<br>2. Reproduce Article 17 in its present form. |

Brussels, 27 November 1996.

*The President*

*of the Economic and Social Committee*

Tom JENKINS

# Opinion of the Economic and Social Committee on the 'Application of telematics systems to intermodal transport in a pan-European context'

(97/C 66/08)

At its meeting on 30 May 1996, the Economic and Social Committee decided, in accordance with Rule 23(3) of its Rules of Procedure, to draw up an opinion on the 'Application of telematics systems [1] to intermodal transport in a pan-European context'.

The Section for Transport and Communications, which was responsible for the preparatory work, adopted its opinion on 11 November 1996. The rapporteur was Mr Kielman.

At its 340th Plenary Session of 27 and 28 November 1996 (meeting of 27 November 1996), the Economic and Social Committee adopted the following opinion by 105 votes to 1, with 6 abstentions.

## 1. Reasons for drawing up an opinion

1.1. ESC members [2] gave the following reasons for requesting that the Section draw up an own-initiative opinion on the third All-European Transport Conference (to be held in Helsinki in 1997).

1.2. 'Since the second All-European Transport Conference in Crete, in March 1994, the Committee (transport section) has been continuously involved in the work of the ad hoc Steering Committee. The Steering Committee is headed by the EP and the Commission, with input from other organizations.

1.3. The preparations for the third conference in Helsinki in 1997 allow Steering Committee members more opportunities to structure the substance of the debate in Helsinki. The emphasis at the Helsinki conference will be on intelligent use of trans-European networks, dealing especially with the future importance of telematics systems. The Committee's task in these preparations is to draw up a report on telematics systems in intermodal transport'.

1.3.1. In this opinion, the ESC will concern itself only with goods transport; air freight will not be taken into consideration.

1.4. 'Building on previous section work on telematics, this own-initiative opinion is to focus on the principle of intermodality and co-operation throughout Europe.

1.5. The Committee will make a specific contribution to the Helsinki conference by summing up the current situation, the problems of and the prospects for intermodal telematics systems throughout Europe.'

1.6. In view of the discussion in the Steering Committee, it is possible that the ESC will emerge as rapporteur on the Application of telematics systems to intermodal transport in a pan-European context during the preparatory phase of the third All-European Transport Conference in Helsinki in 1997.

## 2. Introduction

2.1. In an opinion of 24 November 1992 on Regulation (EEC) No 1100/89 [3], the ESC cited the following reasons for improving intermodal transport:

— roads in the Community were congested or becoming so;

— the expected increase in traffic could not be absorbed by road transport alone;

— railways could carry a larger proportion if international co-operation between them was improved;

— the inland waterways still had enough capacity to expand;

— sea transport (especially coastal shipping) could also play a major role in combined transport;

[1] Telematics can be defined as the digital exchange and processing of information between different, distant and mutually accessible network computer systems. In a European context, such an exchange would also normally be operational across national borders.

[2] Mr Eulen and Mr Bleser.

[3] OJ No C 19, 25. 1. 1993, p. 29 (rapporteur: Mr Tukker).

— transport by rail or water was less harmful to the environment than road transport.

As part of a pan-European approach to transport problems in general and intermodal transport in particular, the non-EU countries of Europe have been involved alongside EU Member States.

2.2. In its opinion of 25 October 1995 on telematics applications for transport in Europe [1], the ESC noted that by upgrading productivity, infrastructure and vehicle use it should be possible to keep the expansion of transport services under control, since there would be a smaller increase in the number of journeys made and therefore in the use of transport. Telematics applications in transport could contribute enormously towards making infrastructure and vehicle use more productive. Safety too, a key component of transport quality, could be improved greatly through telematics applications.

2.3. In view of the importance of improving and extending intermodal transport, the ESC supported the Council's proposal to extend the application of Regulation (EEC) No 1107/70 up to 31 December 1997 in its opinion of 25 October 1995 on aids for transport by rail, road and inland waterway [2].

2.4. In an own-initiative opinion of 22 November 1995 on the Commission's legislative programme for transport/common transport policy action programme 1995-2000 [3], the ESC emphasized the crucial importance of intermodality and interoperability to the development of trans-European networks.

## 3. General comments/directions for development

### 3.1. *General comments*

3.1.1. The key feature of the goods transport industry is the sheer variety of people, actions, manifestations and procedures which it involves. Information flows are highly complex. Separate information and telecommunications systems have been developed for each transport mode (road, rail, inland waterway, coastal and maritime shipping). Only in exceptional cases are the various systems linked together or integrated into a single scheme. The telematics market can be described as a supplier's market, which is highly technology-driven. Consequently, it is very difficult to influence development. In order to shape some ideas on this subject, a congress on transport telematics is held every year; the most recent of these was in Yokohama, Japan, in November 1995.

3.1.2. Information flows in intermodal transport are of more than average complexity. As the number of parties involved increases, extra actions will have to be performed. Because of this, the quantity of information increases and the need for reliable information grows.

3.1.3. Telematics in intermodal transport can be considered from a number of angles: information, telecommunication, persons involved, procedures, suppliers of services, users of services, authorities, etc. So, the need for structuring and guidance is great. The subject can be broken down into three levels [4]:

1) vehicle and load unit systems;

2) infrastructure systems;

3) transport organization and management systems.

3.1.4. Users of telematics systems in transport include:

— road hauliers;

— railway companies;

— inland waterway firms;

— intermodal transport operators;

— shippers;

— forwarding agents;

— stevedores/freight brokers;

— shipowners;

— customs authorities;

— port authorities;

— terminal operators;

— the authorities (local/regional/national/international);

— banks/insurance companies.

### 3.2. *Directions for development*

3.2.1. The following examples can be given of directions in which IT use in transport can be developed:

— links between systems;

— increasing system integration;

— increased use of dynamic information processing;

— increased use and application possibilities of worldwide computer networks (Internet);

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[1] OJ No C 18, 22. 1. 1996, p. 32 (the original rapporteur was Mr Denkhaus until his death, when he was succeeded by Mr Kielman).
[2] OJ No C 39, 12. 2. 1996, p. 100 (rapporteur: Mr Kielman).
[3] OJ No C 39, 12. 2. 1996, p. 43 (rapporteur: Mr Wright).
[4] Source: International Transport Workers' Federation: A Transport Resolution in the Pipeline? Telematics in Road Transport, 1/1995.

— standardization in reports (EDI-FACT);

— increased integration in logistic chains and more chain management;

— greater co-operation between shippers and transporters, and thus an increasing need for information;

— globalization of transport.

These are the important 'items' which will be developed further at a later stage.

## 4. Intermodal transport and telematics application problems

4.1. The use of intermodal transport has its limits because of the distance thresholds required to make road-rail and road-water intermodal transport profitable. The use of intermodal transport is rarely possible on journeys of less than 150 kilometres, even though around 85 % of all inland road journeys fall into this category [1]. Intermodal transport calls for relatively large investments in load units and transhipment facilities. The question of load unit standardization has not yet been adequately discussed. The maritime ISO container is very suitable as a maritime load unit, but there are a number of limitations as regards inland transport with standardized pallets.

The capacity of the railway network is inadequate on certain routes, especially those where passenger transport by rail also makes great claims on available capacity. The rail infrastructure in the different countries of Europe uses a large number of different electricity and safety systems, while some countries also use a different track gauge. In addition, the load-limit gauge of the railways is limited in a number of countries, especially in southern Europe. However, such handicaps are rare on most of the lines which are of importance to intermodal transport. What is more, the increase in the number of high-speed lines can eventually free capacity for goods traffic on certain routes, while new technologies and transport concepts (such as multi-voltage locomotives, shuttle trains, etc.) simplify cross-border goods transport. Such developments can give more momentum to intermodal transport.

The network of inland waterway and coastal links varies from country to country and covers only a part of the route network. Some inland shipping has not yet been liberalized (e.g. freight distribution).

4.2. Recent surveys have identified a number of problems which arise when applying telematics in transport. Firms (i.e. carriers, shippers, forwarding agents, terminal operators) face the following in particular:

— the costs involved;

— compatibility between systems;

— the lack of standardization;

— insufficient reliability of information;

— lack of user-friendliness;

— little flexibility;

— data banks provide an incomplete picture because data on actual transport flows is not always correct.

Such bottlenecks are more common in intermodal transport than in individual firms, process chains or autonomous procedural systems. The demand for affordable, standardized and compatible systems in intermodal transport is therefore particularly high.

## 5. Promising fields for the development of telematics in intermodal transport

5.1. Promising fields for the development of telematics in intermodal transport can be summarized as follows:

1) systems for co-operation and strategic planning;

2) tracking and tracing systems;

3) integration with traffic-management systems;

4) extension of 'single mode' fleet-management systems.

5.2. As regards systems for co-operation and strategic planning, the choice for intermodal transport is largely influenced by the amount of information supplied. When transport customers (mostly shippers) realise the possibilities, conditions and costs of intermodal transport by means of strategic information systems, one can expect a big increase in intermodal transport. The development of intermodal reservation and booking systems will also contribute towards the increasing use of intermodal transport. In intermodal transport there is, in principle, always talk about co-operation between the various procedures and shippers. Telematics will provide the support necessary for this.

5.3. As regards tracking and tracing systems, the greatest potential for telematics in intermodal transport is in systems for the tracking and tracing of load units. Such systems can be counted among the operational

[1] See NEA report 'The Transport of Goods by Road and its Environment in the Europe of Tomorrow', March 1992.

fleet-management systems. Tracking and tracing is possible from fixed points (such as terminals) or with mobile communications.

5.4. Because intermodal transport forms an integral part of the whole transport system, it should be taken into account when traffic management systems are developed. So, when dynamic traffic information systems are developed, account should be taken of the different procedures of intermodal transport chains.

Freight and passenger transport clearly interact, and indeed compete for limited resources. Therefore telematics systems developed for each should be capable of transmitting, receiving and handling information relevant to the other.

5.5. As regards the extension of 'single mode' fleet-management systems, a large number of single mode fleet-management systems have already been developed. When these systems set up their own procedures, this may mean a big step forward for intermodal transport. The development of intermodal route planning and registration systems can improve the efficiency of intermodal transport immensely.

## 6. The role of the authorities in promoting telematics and intermodal transport

### 6.1. *Objectives for promoting telematics in intermodal transport*

National and international authorities get involved with telematics in intermodal transport for the following policy reasons:

— optimum network management: trunk roads, railways and inland waterways;

— improved transport efficiency through reduction of the number of kilometres travelled, improvement of planning and order processing, increasing of the load factor etc.;

— reduced congestion;

— reduced energy consumption, noise levels and the emission of harmful substances;

— increased (traffic) safety;

— provision and liberalization of telecommunications infrastructure.

Government encouragement is targeted on:

— traffic management road, rail, maritime and inland waterways;

— telematics infrastructure;

— chain management;

— fleet management road, rail, maritime and inland waterways;

— general government purchases.

The costs of new telematics applications and developments are very high, especially in the initial phase. The intermodal sector is only capable to a limited extent of financing large-scale developments in this area entirely on its own. Here is a task for the authorities, which can support new developments by means of targeted R& D programmes.

### 6.2. *Existing EU activities in the field of promoting telematics and intermodal transport*

Within the European Union it is worth noting the following programmes and activities which are directed towards or have a close link with telematics and intermodal transport:

Under the guidance of DG VII:

— the Fourth Transport Research Framework Programme;

— the development of Trans-European Networks;

— the Intermodal Transport Task Force;

— the Future Railways and Railway Systems Task Force.

Under the guidance of DG XIII:

— the Fourth Telematics Framework Programme;

— the development of Trans-European Telecommunications Networks.

Under the joint guidance of DG VII and DG XIII:

— the Transport Telematics Implementation High Level Group.

There are also many separate initiatives at national and regional level to promote intermodal transport and telematics.

## 7. Recommendations

7.1. Telematics applications need to be deployed to meet the genuine user needs of all actors in freight transport. The technology is not an end in itself.

7.2. The social aspects of technology development should not be overlooked when developing and applying telematics to intermodal transport. Telematics applications in transport can have a big impact on working conditions, employment and the organization of work. New technologies require different forms and levels of education and training.

7.3. In addition, the following points should be borne in mind when applying telematics to intermodal transport:

— the target should be the use of total intermodal transport chains;

— application should be consistent with the goods categories and logistic chains of the shipping industry;

— as much use as possible should be made of existing, accepted techniques;

— a bottom-up approach from the sector should be encouraged;

— as many branches as possible should be penetrated;

— small firms should also be able to use and apply telematics systems;

— organizations and people should come first, with technology following after;

— plenty of attention should be paid to transferring know-how;

— telematics systems development should be closely geared to the development of Trans-European networks;

— there should be harmony between European programmes and initiatives and national and regional initiatives.

Brussels, 27 November 1996.

*The President*

*of the Economic and Social Committee*

Tom JENKINS

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**Opinion of the Economic and Social Committee on the 'Proposal for a Council Directive setting up a harmonized safety regime for fishing vessels of 24 metres in length and over'** [1]

(97/C 66/09)

On 12 October 1996 the Council decided to consult the Economic and Social Committee, under Article 84(2) of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 11 November 1996. The rapporteur was Mr Chagas.

At its 340th Plenary Session (meeting of 27 November 1996), the Economic and Social Committee adopted the following opinion by 105 votes to one, with four abstentions.

## 1. Background

1.1. The 1974 International Convention on the Safety of Life at Sea (SOLAS) did not cover fishing vessels. Moves were therefore made to draw up a convention catering for the special characteristics of such vessels, which laid down construction standards for new vessels and standards for equipment with a bearing on vessel safety.

This led to the signing in 1977 of the International Convention for the Safety of Fishing Vessels, generally known as the 1977 Torremolinos Convention.

1.2. However, the 1977 convention never entered into force because it was not ratified by a sufficient number of signatories.

In an effort to overcome objections from countries with large fishing fleets, and to incorporate in the 1977 convention some alterations made in the meantime to the SOLAS Convention, the International Maritime Organization (IMO) revised the 1977 convention. This resulted in the 1993 Torremolinos Protocol.

1.3. Under the protocol, obligatory application of the main chapters of the revised convention is restricted to vessels measuring 45 metres and over (the previous figure was 24 metres and over).

[1] OJ No C 292, 4. 10. 1996, p. 29.

1.4. Since then, and on the basis of the 1977 convention, the Council has adopted Directive 93/103/EC [1] which sets minimum health and safety requirements for work on board fishing vessels. The directive applies to new vessels with a length of at least 15 metres, and to existing vessels with a length of at least 18 metres.

However, the protocol revising the 1977 convention delayed the implementation of the directive and reduced its effects. By restricting obligatory application to vessels of at least 45 metres, the protocol reduced the number of vessels covered, as 85 % of vessels above 100 GT have a length of between 24 and 45 metres. Despite this, the protocol has not yet been ratified by the number of signatories required for it to enter into force.

## 2. The Commission proposal

2.1. As Article 3(5) of the Torremolinos Protocol allows for regional arrangements to ensure a uniform and consistent safety regime for all vessels operating in the same area or region, the Commission now proposes to extend, as far as possible, the protocol's requirements for vessels of 45 metres and over to those of between 24 and 45 metres.

2.2. The Commission views the present proposal as a first step to improved safety, establishing harmonized safety standards for fishing vessels flying the flag of a Member State and for third country fishing vessels which operate in Member States' internal or territorial waters or which land their catch in a Member State port.

2.3. The proposal is also intended for the European Economic Area and is of particular relevance to Norway and Iceland.

2.4. In view of the economic impact which the safety requirements would have on existing vessels, the Commission proposes that such vessels should only be subject to the measures already applicable to them under the protocol.

This concerns radio lifesaving appliances, radar transponders, emergency procedures, musters and drills, radiocommunications and shipborne navigational equipment.

2.5. Lastly, the proposal sets out procedures for the issue, by recognized organizations, of certificates of compliance to guarantee attainment of the desired safety level.

## 3. General comments

3.1. The fisheries sector, with its various subsectors, is highly sensitive and faces serious threats to its survival. The Committee has issued a number of opinions on the sector [2]. The introduction of new requirements governing vessel construction, safety equipment and procedures on board must thus be weighed up properly so as not to aggravate the problems threatening the survival of the sector. However, minimum safety conditions for the protection of human life, vessels and the marine environment must be guaranteed at the same time. In this light, the Committee welcomes the Commission proposal as it will help to improve fishing safety standards.

3.2. The Commission itself acknowledges that although fishing is a particularly accident-prone activity, there are no EU statistics to ascertain the real extent of the problem.

The Committee calls for appropriate measures to provide an accurate picture of the number and impact of accidents on fishing vessels, including fatalities, industrial accidents and industrial diseases that affect fishermen.

3.3. The Committee supports the setting of regional safety standards under Article 3(5) of the Torremolinos Protocol, and considers that these standards should apply to all Mediterranean and European coastal states. The Commission should encourage the relevant third countries to adhere to these objectives.

3.4. While supporting the aim of making the requirements mandatory for third country vessels which wish to fish in Member States' internal or territorial waters or land their catch at an EU port, the Committee feels that this will be difficult to check. Also, there is no provision for checks on the possibility of substandard

[1] Council Directive 93/103/EC of 23. 11. 1993 concerning the minimum safety and health requirements for work on board fishing vessels (13th individual Directive within the meaning of Article 16(1) of Directive 89/291/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work) (OJ No L 307, 13. 12. 1993, p. 1).

[2] See for example the ESC Own-initiative Opinion on conservation of fishery resources and fishing rights (OJ No C 39, 12. 2. 1996, p. 32).

vessels transferring their catches to vessels which comply with the protocol, so that they can be landed without difficulty at an EU port. It will be difficult, with existing means, to check that third country vessels comply with the directive. The Commission should encourage Member States to increase these means of checking, both on land and at sea.

3.5. As mentioned in 1.2 above, the 1977 Torremolinos Convention did not enter into force; it was not even ratified by all Member States, despite the existence of a Council recommendation on the subject [1].

3.6. The Committee considers it vitally important that, as the Commission proposes, common safety standards and requirements be laid down for fishing vessels measuring 24 metres or more, as an initial step. It also supports the Commission's intention to study measures for existing vessels and for vessels of less than 24 metres on top of the measures already laid down for other vessels. These studies should be issued by 1 January 1998 so that the new proposals which the Commission intends to present can also cover these groups of vessels.

3.7. Only about 4 % of EU fishing vessels (vessels of 24 metres or more in length) will be affected by the proposed measures.

However, in seeking to adopt the Torremolinos Protocol, which reduced the minimum safety standards laid down in the convention, the Commission lays down no common rules for such important safety areas as basic fire-fighting equipment and lifesaving appliances on existing vessels of between 24 and 45 metres. The proposal should also cover these areas.

3.8. The Commission also intends to extend Regulation (EEC) No 613/91 [2] to fishing vessels. This must not mean that shipowners can opt for a Community register which might interpret certification criteria more flexibly and subsequently get them accepted in another Member State whose standards and certification levels are known to be more stringent.

3.9. Lastly, the Committee thinks that if safety standards on board fishing vessels are to be improved, it is vital that workers in the sector are properly trained. Accordingly, and although this falls outside the scope of the Commission's proposal, the Committee asks the Commission to urge Member States to ratify as soon as possible the 1995 STCW-F Convention laying down the minimum training and certification standards required of workers on board fishing vessels.

## 4. Specific comments

4.1. *Article 1(1)*

The proposal also applies to third country vessels operating in the internal or territorial waters of a Member State, i.e. within the 12-mile limit. Given the impossibility of laying down a wider limit in EU legislation, the Committee recommends that the Commission ensure that bilateral agreements with third countries whose vessels are covered by the present proposal extend its application to 200 miles (the EEZs).

4.2. *Article 2(1)*

It is common practice, notably in some third country fleets, for a vessel to transfer its catch to another, larger vessel which is used solely to transport the fish. Hence, in the definition of 'fishing vessel', the words 'or transferring and transporting' should be inserted after 'processing'.

4.3. *Article 3(2)*

The Committee reiterates its concern that the requirements for basic fire-fighting equipment and lifesaving appliances do not apply to existing vessels of between 24 and 45 metres.

4.4. *Article 3(4)*

The guarantee of the flag state administration that the certification complies with Community requirements does not seem sufficient. Cooperation programmes covering inspection and certification in these countries, in conjunction with inspections by Member States in accordance with Article 9(1), could offer a way round this problem.

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[1] Council Recommendation of 23. 9. 1980 on the ratification of the Torremolinos Convention (OJ No L 259, 2. 10. 1980, p. 29).

[2] Council Regulation (EEC) No 613/91 of 4. 3. 1991 on the transfer of ships from one register to another in the Community (OJ No L 68, 13. 8. 1991, p. 1).

4.5. *Article 5*

Frequent use is made, in the Torremolinos Protocol and elsewhere, of such expressions as 'equivalent measures' or measures 'which satisfy the Administration'. Above and beyond the proposed procedures, the Commission should ensure better coordination between the control mechanisms of the common fisheries policy and port state control, backed by proper training of inspection staff.

4.6. *Article 6* (also applicable to Article 5)

The Committee would like to know how the Commission intends to ensure that a similar procedure is applied to third country vessels.

4.7. *Articles 7 and 8*

Council Directive 94/57/EC [1] lays down common rules and standards for the bodies authorized to carry out ship inspections and surveys and for the relevant activities of maritime administrations. Whilst recognizing that the classification societies can have an important role to play here, the Committee considers that maritime administrations must play a central role in inspections. The granting of Community support would be justified in order to guarantee a proper level of inspection.

4.8. *Articles 10 and 11*

The Committee thinks that the procedure for adopting amendments should be as laid down in Article 12(2) and 12(3) of Council Directive 93/75/EC [2]. This would give Member States a greater say in decisions.

4.9. *Article 11*

The advisory committee set up under Article 12(1) of the abovementioned directive comprises representatives of the Member States and is chaired by a Commission representative. Provision should also be made for it to include representatives of the social partners; at the very least, they should be consulted in advance.

4.10. *Annex II*

As already mentioned, the provisions of this annex, particularly those on basic fire-fighting equipment and lifesaving appliances, should also apply to existing vessels.

4.10.1. Annex II, Chapter VII, Regulation 1

A second paragraph should be added to make compliance with certain basic requirements for lifesaving appliances mandatory, regardless of the vessel's date of construction.

4.11. *Annex III, 1.1*

4.11.1. The Committee thinks that the Baltic Sea should be included.

4.11.2. The Committee considers that the line delimiting the 'Northern' waters should be a stepped line which takes account of the special situations of certain regions, rather than a simple line of latitude.

(1) Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations (OJ No L 319, 12. 12. 1994, p. 20).

(2) Council Directive 93/75/EC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods (OJ No L 247, 5. 10. 1993, p. 19).

Brussels, 27 November 1996.

*The President*

*of the Economic and Social Committee*

Tom JENKINS

**Opinion of the Economic and Social Committee on:**

**— the 'Communication of the Commission on equality of opportunity for people with disabilities', and**

**— the 'Draft Resolution of the Council and of representatives of the governments of the Member States meeting within the Council on equality of opportunity for people with disabilities'**

(97/C 66/10)

On 27 November 1996, the Economic and Social Committee decided to draw up an opinion, in accordance with Article 23(3) of its Rules of Procedure, on the above-mentioned communication and draft resolution.

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 November 1996 (the rapporteur was Mrs Wahrolin).

At its 340th Plenary Session (meeting of 27 November 1996), the Economic and Social Committee adopted the following opinion by 115 votes in favour, with 3 abstentions.

## 1. General comments

The Economic and Social Committee welcomes the Commission's initiative in putting forward a European Community disability strategy and a Draft Resolution on equality of opportunity for people with disabilities. It notes with particular pleasure that this draft text is founded on a rights-based approach which views disability as a matter that concerns everyone. The Committee also supports the aim: to take energetic action to curb discrimination on grounds of disability. Disability policy has for many years attracted little attention but must now receive greater priority in the drive to attain a Citizens' Europe. Unless all groups are involved in efforts to create a better European society, Europe's citizens will cease to believe that the European Union concerns them. Hence the European Commission's initiative is a step in the right direction. The ESC therefore basically endorses the Commission proposal.

### 1.1. *Background*

1.1.1. People with disabilities are often particularly at risk, regardless of the society in which they live. One reason is the failure to take account of their requirements. Another is that society fails to pay sufficient attention to their capabilities and potential. Their needs and aspirations must therefore be respected. Yet it is entirely natural to have some form of disability. Anyone can be afflicted by illness or injury, and the likelihood of becoming impaired in some way increases with age. In tandem with medical progress, more and more lives are saved (for instance after a car accident), but people are left in a seriously impaired state. There has been a sharp increase in the over-80 age bracket in many European countries, and hence an increase in disability. Consequently the needs of people with disabilities need to be taken into account in general community welfare.

1.1.2. In most countries the emphasis of disability policy was initially on institutional care and education — in some cases because of a belief that this was the best solution and, in others, so as to hide people with disabilities away from the community at large. After the Second World War many countries started to concentrate on the rehabilitation of disabled adults and the education of disabled children. Simultaneously there was increasing awareness that their situation could be improved. A key factor in this development is the shift in the focus of disability policy from the individual to the community, i.e. to pinpoint the obstacles to participation that exist in the social environment. This trend was first and foremost prompted by the fact that people with disabilities started to organize themselves and strove to influence the communities in which they lived.

1.1.3. International action on disability has been of major importance. In 1981 the UN organized an International Year of Disabled Persons, which resulted in a world programme of action concerning disabled persons. At the end of the 1980s the international disabled persons' movement urged the UN to conclude a convention on the rights of the disabled. This did not materialize but instead a document was adopted with the title 'Standard rules on the equalization of opportunities for persons with disabilities'. This document has secured the support of all UN — and, by extension, all EU — Member States.

1.1.4. The UN standard rules are currently the most important international instrument for disability issues. The 22 rules encompass virtually all social spheres, from education to legislation. Their purpose is to ensure that girls, boys, women and men with disabilities have the same civil rights and duties as other citizens. UN Member

States are responsible for dismantling the barriers which prevent people with disabilities from exercising their rights and freedoms and make it difficult for them to participate fully in the community's activities. The UN standard rules confirm the human rights dimension of disability issues.

1.1.5. In tandem with international work on disability issues, several countries have developed a new type of legislation on disability: anti-discrimination legislation. The Americans with Disabilities Act (ADA) has been particularly influential in this development. This unique law is founded on US civil rights' principles. The ADA's key message is that US society does not condone discrimination against people with disabilities. This applies to both direct and indirect discrimination. The US legislation has served as inspiration to, among others, the United Kingdom, which last year adopted legislation prohibiting discrimination against people with disabilities.

1.1.6. It is indicative that the Commission stresses that what is good for those with disabilities is also good for other groups [e.g. accessible public transport also benefits the elderly and families with children (prams)]. Similarly, it rightly points out that discrimination against people with disabilities entails a loss to society. When the ADA was adopted, the US President at the time, George Bush, stated that such discrimination cost American society USD 200 000 million a year. Corresponding figures no doubt apply in the case of Europe. The allocation of resources to placing living conditions for people with disabilities on a par with those of non-disabled persons is an investment not just in the individual but in society as a whole.

1.2. *General comments on the disability strategy*

1.2.1. An underlying theme of both the resolution and the communication is that disability issues should be incorporated into all policies. The Committee endorses this 'mainstreaming' approach. The Communication states that the Commission intends to involve all directorates-general concerned in an inter-service disability group. A variety of initiatives, e.g. in research, education and transport, are to be examined. The Committee would stress the vital importance of realizing this ambition. Here a major prerequisite is that the Commission makes a careful study of the impact of its future proposals on people with disabilities, especially from the angle of accessibility. The disability dimension spans all spheres, from refugee questions to the design of automatic cash dispensers.

1.2.2. To enable the Commission to implement its mainstreaming strategy effectively, the Committee advocates that the Commission's disability group be backed by officials with sound expertise in the field. An internal liaison unit should be formed, and could appropriately be based on the team of experts currently attached to the Helios II programme. This group should provide back-up to the Commission's inter-service disability group. Adequate funding must be earmarked for this work, which the Committee would like to be given high priority in the future budgetary preparations. The Committee observes with disquiet the great uncertainty that currently prevails as to what will happen with disability questions at the end of 1996, when the Helios II programme comes to an end. The Committee regards as inadequate the promise given in the Commission's communication to contribute to certain activities (e.g. publication of the newsletter on disability issues, HELIOSCOPE) 'to the extent that the Community budget allows'.

1.2.3. The Committee agrees with the Commission on the particular importance of information and communication technologies (ICTs) for people with disabilities. Unfortunately Europe lags behind the United States in this field. For many years the US federal authorities have been far stricter than European authorities in requiring ICT producers to ensure that their products are accessible to people with disabilities. The Committee sees such accessibility as one of the cornerstones in the creation of the future European information society.

1.2.4. To maximize the impact of mainstreaming, resources are needed. For instance, to make it practically possible for disabled students to participate in the EU educational exchange programme, funds will have to be earmarked for these students' specific needs (e.g. course material may have to be provided in braille for visually impaired students). Everyone involved must be fully aware of the requirements and shoulder responsibility. In its opinion on European cultural policy for children [1] the Committee stressed the importance of making culture accessible to children with disabilities. The Committee recommends that similar attention be given to this aspect in other spheres.

1.2.5. The Committee has repeatedly stressed the importance of employment issues. This is particularly relevant in the case of people with disabilities. Consequently, the Committee wishes future work on the communication and resolution to give high priority to employment. The Commission should assess what share of Structural Fund resources is allocated to people with disabilities and, should the amount prove to be small, the Committee recommends that the disabled, as a group, be assigned higher priority. Here the Committee would urge all EU institutions to press for the recruitment

[1] OJ No C 153, 28. 5. 1996.

of more staff with a disability. It is pleased to note that the Commission wishes to set an example here.

1.2.6. The Commission is suggesting the setting-up of a special high level group with representatives from the Member States. The Committee welcomes the idea of this group, which should concern itself especially with employment issues and frame proposals on ways of improving the free movement of disabled workers, as well as following up and appraising the results. The Committee advocates that the subsidiarity principle serve as guideline for this work.

1.2.7. The Committee would stress the importance of ongoing dialogue between the Commission's disability group and special high level group and the European disability forum [1].

1.3. *General comments on the resolution and guidelines*

1.3.1. The Committee is delighted that the Commission's draft resolution draws on the UN standard rules.

1.3.2. In the Committee's view, it is vital that free movement of workers, completion and expansion of the single market and increased consumer rights should be guaranteed for all EU citizens, including those with disabilities.

1.3.3. The Committee would urge the Member States to lose no time in embarking on work to frame plans for attaining the aims of the resolution and the UN standard rules. There can be no tangible change in the situation of people with disabilities until practical plans can be presented and put into effect.

## 2. Specific comments on the resolution and the guidelines

2.1. The Committee would point to a number of minor ambiguities in the resolution and guidelines.

2.2. In the Committee's view, 'REAFFIRM the principles and values that underline the United Nations' standard rules on the equalization of opportunities for persons with disabilities' (point 12 of the resolution) should be reworded to read 'REAFFIRMS yet again their commitment to the United Nations standard rules'. In the Committee's view, the resolution should give the fullest possible backing to the standard rules and this must be reflected clearly in its wording.

2.3. The first indent of the resolution states that the UN standard rules entail 'upholding the principle of equality of opportunity in the development of comprehensive policies in the field of disability'. However, this wording does not tally entirely with the wording of the standard rules. The Committee would therefore recommend that this indent be replaced by 'The purpose of the rules is to ensure that girls, boys, women and men with disabilities, as members of their societies, may exercise the same rights and obligations as others'.

2.4. The resolution contains a definition of 'people with disabilities'. However, the Committee regards this definition as superfluous and considers that the resolution should instead endorse wholeheartedly the definition used in the UN standard rules. Otherwise there is an obvious risk of confusion as to which definition should apply. The definition given in the standard rules is as follows:

> 'The term "disability" summarizes a great number of different functional limitations occurring in any population in any country of the world. People may be disabled by physical, intellectual or sensory impairment, medical conditions or mental illness. Such impairments, conditions or illnesses may be permanent or transitory in nature. The term "handicap" means the loss or limitation of opportunities to take part in the life of the community on an equal level with others. It describes the encounter between the person with a disability and the environment. The purpose of this term is to emphasize the focus on the shortcomings in the environment and in many organized activities in society, for example, information, communication and education, which prevent persons with disabilities from participating on equal terms.'

2.5. The guidelines stress the importance of integrating people with disabilities into the education system. The Committee endorses this approach but would point out that there are certain groups of disabled people (e.g. those who are deaf from childhood) for which special teaching often proves the most effective solution.

Similarly integration must not be confused with placing a child in a school. It is not enough merely to insert a disabled student into the ordinary school system. For purposes of education, viz. full participation in the study environment, special measures are needed, such as adaptation of the teaching premises, technical aids, support teachers, psycho-social assistance, and so on.

## 3. Conclusion

The Committee appreciates the Commission's initiative and sees it as a major contribution to the way the role

[1] The Helios II programme makes provision for a special disability forum, which ceases with the programme's expiry at the end of the year. With the Commission's support, an independent disability forum has therefore been established, consisting of 15 umbrella organizations grouping disability interests (one from each Member State) and 15 European disability organizations.

of people with disabilities in society is viewed. It is vital that the resolution should reinforce — not compete with — the UN standard rules. However, practical measures and prioritization of resources hold the key to translating aspirations into reality. The Committee therefore stresses that the Member States should give the utmost attention to this resolution and take active steps to realize its aims and the aims of the UN standard rules.

Brussels, 27 November 1996.

*The President*
*of the Economic and Social Committee*
Tom JENKINS

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**Opinion of the Economic and Social Committee on:**

**— the 'Second Commission Report on the review of Community energy legislation', and**

**— the 'Communication from the Commission to the European Parliament and the Council concerning the repeal of several Community legislative texts in the field of energy policy'** [1]

(97/C 66/11)

On 22 October 1996, the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the above-mentioned report and communication.

The Section for Energy, Nuclear Questions and Research, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 November 1996. The rapporteur was Mr von der Decken.

At its 340th Plenary Session held on 27 and 28 November 1996 (meeting of 27 November 1996), the Economic and Social Committee adopted the following opinion by 106 votes to three, with two abstentions.

## 1. Introduction

1.1. The Commission document constitutes the second phase of the review of Community energy legislation launched by the Commission in 1995 (COM(95) 391 final of 26 July 1995). The object of the exercise is to streamline, simplify and where necessary update legislation in this sector.

1.2. The first phase of the review was confined to the rational energy use and oil sectors and covered only part of the relevant legislation, viz. 17 basic legislative acts adopted for the most part between 1972 and 1976 (15 by the Council and two by the Commission).

1.3. As a result of this review the Commission proposed the repeal of ten of these acts, basically because they were no longer of any practical value or had been overtaken by legislative developments; the other acts were to be retained, three for the time being. Consultation of the Committee was required for the repeal of four of these acts and its approval given on 26 October 1995 [2].

1.4. At the same time and as part of this exercise, the Commission proposed a revision and simplification of the regulation on notifying the Commission of investment projects of interest to the Community in the

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[1] OJ No C 272, 18. 9. 1996, p. 9-10.

[2] OJ No C 18, 22. 1. 1996, p. 103.

petroleum, natural gas and electricity sectors (1). The Committee also gave its opinion on this proposal on 26 October 1995 (2) and the new regulation was adopted on 22 April 1996 (3).

1.5. With the present report, the Commission (i) continues its review of legislation in the two sectors already covered by its first report and (ii) extends it to the natural gas and electricity sectors. Thus it examines 18 basic legislative acts adopted for the most part between 1968 and 1980; six concern the oil sector, one natural gas, three electricity and seven rational use of energy. In addition there is a general regulation on providing the Commission with information on the state of the Community's energy supplies.

1.6. The conclusions which the Commission draws from this review lead it to recommend the repeal of only five acts; the others should be retained, either for the time being (7), or subject to a subsequent report justifying them (6). The proposals for repeal of the relevant acts are contained in the communication accompanying the Commission's report. Formal consultation of the Committee is required for only three of these acts as it was not consulted when the other two were first adopted.

1.7. The Commission considers that this second report completes the review of Community energy legislation based on the EC Treaty, at least in its present form. It announces its intention of drawing up a third report reviewing secondary legislation based on the ECSC and Euratom Treaties.

1.7.1. As far as future action is concerned, the Commission has already announced that it intends to make regular analyses of Community energy legislation and to publish its findings in the reports on energy policy which it has pledged to produce every two years.

## 2. General comments

2.1. In accordance with its previous opinion, the Committee warmly welcomes the presentation of this second report which fulfils an undertaking made by the Commission in its first review of Community energy legislation. The Committee is pleased to note that this report deals not only with the sectors that were not tackled during the previous review, but also rounds off the analysis of Community legislation in the two sectors covered by the first report.

2.1.1. This action is in line with a request that the Committee made to the Commission in its earlier opinion, which gave examples of various other pieces of legislation that were also worth examining.

2.2. Equally, the Committee particularly welcomes the follow-up given to a number of its comments and recommendations. Reference is made to several of these in this opinion.

2.3. The Committee notes that the presentation in December 1995 of the White Paper on an energy policy for the European Union (COM(95) 682 final) helped to clarify the energy policy background against which this review of Community legislation is taking place. In its opinion on the first Commission report, the Committee had regretted the absence of such a background. It would again stress that a review exercise is only fully meaningful if it goes beyond a simple legal 'tidying-up operation' and helps to increase the relevance, coherence and effectiveness of Community action in the energy field, not least with regard to the aims and guidelines set out in the Council resolutions of 23 November 1995 (4) and 8 July 1996 (5).

2.4. The Committee notes that the Commission has not come to any final conclusion as regards six of the 18 acts under consideration. It does, however, propose to maintain these acts, subject to subsequent reports justifying them. In these circumstances, the Committee is unable at this stage to assess the case for maintaining the legislation in question.

2.4.1. The Committee regrets that, contrary to its recommendations, the Commission has not taken advantage of the twelve months between the two reviews to draw up the above reports in order to submit their conclusions to the various institutions concerned at this second review stage.

2.4.2. The Committee would recall that its earlier opinion called on the Commission to report, *inter alia*, on Member States' implementation of Council Recommendations 76/495/EEC and 82/604/EEC.

2.4.3. The opinion also highlighted the inadequacy of the Commission's reasons for proposing that Recommendation 77/713/EEC of 25 October 1977 on the rational use of energy in industrial undertakings (6) remain in force. The inadequate nature of the reasons given made it difficult to weigh up the case for maintaining the legislation. The Commission now plans to draw up a report justifying its maintenance.

2.4.4. The Committee is pleased that the Commission has adopted its point of view. However it considers,

(1) OJ No C 346, 23. 12. 1995, p. 10.
(2) OJ No C 18, 22. 1. 1996, p. 107.
(3) OJ No L 102, 25. 4. 1996, p. 1.
(4) OJ No C 327, 7. 12. 1995, p. 3.
(5) OJ No C 224, 1. 8. 1996, p. 1.
(6) OJ No L 295, 18. 11. 1977, p. 3.

contrary to the Commission, that the review of Community energy legislation will not be complete until these reports have been presented and their conclusions assessed.

2.4.4.1. The Committee has been informed that the Commission expects these reports to be completed by mid-1997, and it very much hopes that this timetable will be respected. It would, however, have welcomed a clear commitment on this matter from the Commission in the report under consideration.

2.4.5. The Committee notes, once more, the limited scope of the Commission's review exercise. The Commission's proposals for the repeal of legislation are, here again, more a legal 'tidying-up operation' — since the acts in question have become obsolete or are no longer justified — than a real contribution to reducing and simplifying Community legislation.

2.4.5.1. For this reason, the Committee stresses the importance that should also be given to the consolidation of existing legislation in the energy sector, which it calls for the Commission to carry out where appropriate.

2.5. Nevertheless, the Committee welcomes the repeal proposals contained in the Commission Communication, including those on which it is being formally consulted.

2.5.1. The Committee is especially pleased that the Commission now recognizes the need to repeal Council Decision 77/186/EEC of 14 February 1977 on the exporting of crude oil and petroleum products from one Member State to another in the event of supply difficulties [1], whereas in the first review it had concluded that this Decision needed to be maintained for the time being.

2.5.1.1. The Commission has thus espoused the view taken by the Committee in its earlier opinion. The Opinion expressed justifiable doubts concerning the compatibility of this Decision with the Treaty provisions in respect of the internal market, and called for it to be repealed.

2.5.2. The Committee also notes that the Commission is now proposing that Directive 75/339/EEC obliging the Member States to maintain minimum stocks of fossil fuel at thermal power stations [2] be repealed, whereas the first report had argued that it would be better to maintain this act on a temporary basis until new crisis measures had been adopted.

2.5.2.1. The Committee warmly welcomes this change in direction, having itself called for the repeal of this Directive as there was no evidence to suggest that it was worth maintaining.

2.5.2.2. More generally, the Committee considers that the review confirms its previously voiced view that the fact that a piece of legislation has only partly been overtaken by legislative developments, or has not been replaced by more appropriate provisions, is not in itself sufficient reason to maintain it in force, even temporarily.

2.5.2.3. Given the objectives of a review of this type, the Committee would emphasize that the — even temporary — maintenance of an act can only be justified, first and foremost, in terms of its Community added value.

## 3. Specific comments

### 3.1. *Legislation on oil and crisis measures*

3.1.1. The Committee deplores the fact that no political progress has been made in this area during the last twelve months. It now notes the renewed commitment on the part of the Commission to present a communication in 1997 on the measures to be taken in the event of a supply crisis, with particular regard to oil stocks and their coordinated management.

3.1.1.1. The Committee would stress that the legislation governing this area of energy policy dates back a long way. A special effort is therefore needed to bring it up to date, rationalize it, and adjust it to the new European and international context.

3.1.1.2. The Committee would recall the comments which it made on this matter in its opinion on the first Commission report, and in particular its view that the adoption of new crisis instruments would make a substantial contribution to the pruning and simplifying of Community legislation in this area. The effectiveness of Community action would certainly be stronger as a result.

3.1.1.3. Consequently, the Committee very much hopes that this Communication will not only be supported by new proposals, but that they will also take the directions that have been outlined above.

3.1.2. Turning to Directive 76/491/EEC of 4 May 1976 regarding a Community procedure for information and consultation on the prices of crude oil and petroleum products in the Community [3], the Committee notes that the Commission intends to propose the adoption of new provisions that will lead to the repeal of this Directive.

3.1.2.1. The Committee points out that this proposal contradicts the conclusions of the first report, which stated that the Directive should be maintained and that its implementing procedures merely needed to be simplified.

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[1] OJ No L 61, 5. 3. 1977, p. 23.
[2] OJ No L 153, 13. 6. 1975, p. 35.
[3] OJ No L 140, 28. 5. 1976, p. 4.

3.1.2.2. The Committee notes that the Commission justifies this new approach by 'changes in the structure of the market'. Regrettably, no indication is given as to what these changes are, so it is impossible to assess the merit of this new policy. The Committee would reiterate the dissatisfaction that it expressed with regard to the first report, namely that this situation is not conducive to the transparency which is essential in any review of current Community legislation.

3.1.2.3. Furthermore, the Committee notes that there is no mention of a date for the presentation of this new proposal for a directive.

3.2. *Legislation on energy efficiency*

3.2.1. The Committee regrets, once again, that no indication is given of when the Commission will present its proposal for a directive to replace Directive 79/531/EEC on the labelling of the energy consumption of electric ovens [1].

3.2.2. The Committee takes good note of the reasons which lead the Commission to recommend maintaining Recommendation 76/495/EEC of 4 May 1976 on the rational use of energy in urban passenger transport [2], subject however to the submission of a report justifying it.

3.2.2.1. In this connection, the Committee would draw the Commission's attention to the comments and recommendations which it made in its Opinion of 30 May 1996 on the Commission Green Paper on the Citizens' Network — Fulfilling the potential of public passenger transport in Europe (COM(95) 601 final) [3].

3.2.3. In its opinion on the first report, the Committee particularly emphasized the inadequacy of the Commission's reasons for proposing to retain Directive 78/170/EEC of 13 February 1978 on the performance of heat generators for space heating and the production of hot water in new or existing non-industrial buildings and on the insulation of heat and domestic hot-water distribution in new non-industrial buildings [4].

3.2.3.1. In the Committee's view the Commission's analysis provided no evidence that the Directive was still relevant to the objective of rational energy use and to the specific aims that it set out to achieve, particularly since the Commission itself drew attention to the original shortcomings of the Directive and its subsequent patchy implementation by the Member States.

3.2.3.2. The Committee regrets that in this second report the Commission has not supplied additional information that would enable it to pass judgement with full knowledge of the facts.

3.2.3.3. It therefore calls on the Commission to present a report justifying the implementation of this Directive and — if its maintenance is merited in terms of Community added value — to present proposals ensuring that it is applied uniformly in all Member States.

4. **Additional comments**

4.1. The Committee welcomes the Commission's intention to make a study of existing Community legislation every two years.

4.2. In order to make this exercise as useful and relevant as possible, the Committee would however also suggest that any new proposal be backed up by an impact form, following the example of what is done for SMEs.

4.2.1. Here the Committee would recall that it has also already suggested that, where appropriate, all new legislation should include provisions repealing existing legislation which is thereby rendered obsolete.

4.3. As well as helping to rationalize Community legislation (and this is the aim of these reviews), such a move would also make Community activity in the energy field clearer and more consistent.

(1) OJ No L 145, 13. 6. 1979, p. 7.
(2) OJ No L 140, 28. 5. 1976, p. 16.
(3) OJ No C 212, 22. 7. 1996, p. 77.
(4) OJ No L 52, 23. 2. 1978, p. 32.

Brussels, 27 November 1996.

*The President*
*of the Economic and Social Committee*
Tom JENKINS

**Opinion of the Economic and Social Committee on:**

**— the 'Proposal for a Council Directive laying down the principles governing the organization of veterinary checks on products entering the Community from third countries', and**

**— the 'Proposal for a Council Directive amending Directives 71/118/EEC, 72/462/EEC, 85/73/EEC, 91/67/EEC, 91/492/EEC, 91/493/EEC, 92/45/EEC and 92/118/EEC as regards the organization of veterinary checks on products entering the Community from third countries'** [1]

(97/C 66/12)

On 14 June 1996, the Council decided to consult the Economic and Social Committee, under Articles 43 and 198 of the Treaty establishing the European Community, on the above-mentioned proposals.

The Section for Agriculture and Fisheries which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 November 1996. The rapporteur was Mr Scully.

At its 340th Plenary Session (meeting of 27 November 1996), the Economic and Social Committee adopted the following opinion by 107 votes to one with six abstentions.

1. The Committee notes that the Commission proposal lays down the principles of EU policy in respect of veterinary checks on products of animal origin entering the Community from third countries and, in particular, that:

— consignments from third countries cannot enter the Community without having undergone the required veterinary checks;

— consignments are subject to veterinary checks by staff of the competent authority, acting under the responsibility of the official veterinarian, to ensure compliance with the relevant human and animal health requirements;

— veterinary checks must be conducted at approved border inspection posts in the immediate vicinity of the point of entry into the Community;

— consignments must be accompanied by a veterinary certificate or veterinary document or other document depending on the product in question, its destination, etc.

— products which have been shown to satisfy the Community rules by virtue of the checks may circulate freely within the EU.

2. Whilst welcoming the Commission proposal, the Committee feels that, without explicitly referring to customs rules, the directives should clarify responsibility and the relationship between the respective activities of the customs and veterinary authorities. It should require cooperation between the two authorities rather than, as at present, assigning exclusive responsibility for the supervision of free zones, free warehouses or customs warehouses to the customs authorities.

3. The Committee is of the opinion that:

— the identity check should not be conducted separately but should form part of the physical check;

— rules should be introduced to ensure that products arriving at the Community border which do not have the Community as their final destination leave the EU after transit;

— locating border inspection posts in 'an area which is designated or approved by the customs authorities' could give rise to major operational problems and additional costs for the Member States if this new provision makes it necessary to relocate existing operational facilities, given the considerable adaptation which these have already undergone and which has been acknowledged by the Community organs;

— information on the veterinary safety of consignments from third countries should not be communicated via the ANIMO network since this is exclusively concerned with intra-Community trade. Provision has for some time been made for a corresponding EU system, SHIFT, in respect of imports from third-countries.

[1] OJ No C 245, 23. 8. 1996, p. 24.

4. The Committee agrees that the texts should be clarified and their presentation improved; it would repeat its call for rapid consolidation of the existing rules to make the texts clearer and more comprehensible to users.

Brussels, 27 November 1996.

*The President*
*of the Economic and Social Committee*
Tom JENKINS

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**Opinion of the Economic and Social Committee on the 'Proposal for a Council Regulation (EC) establishing a European Agency for veterinary and phytosanitary inspection'** [1]

(97/C 66/13)

On 2 August 1996 the Council decided to consult the Economic and Social Committee, under Articles 43 and 198 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Agriculture and Fisheries, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 5 November 1996. The Rapporteur was Mr Nilsson.

At its 340th Plenary Session on 27 and 28 November (meeting of 27 November) the Economic and Social Committee adopted the following opinion by 82 votes to 10, with 14 abstentions.

## 1. The Commission proposal

1.1. In the proposal for a Council Regulation the Commission suggests that an Agency for Veterinary and Phytosanitary Inspection should be set up.

1.2. This means that the existing Office would be reinforced and safeguarded; inspectors would see an increase in their autonomy; and on-the-spot checks and assessments could be carried out in the Member States and in third countries. Competence for checks and surveillance would shift from the Commission to the Agency.

1.3. The Commission proposes that the Agency should be funded by 1 % of the fees to be charged by Member States, under Community rules, for veterinary inspections. Other budgets would not be affected.

1.4. According to the proposal, the Agency would be run by a management board consisting of representatives from each of the Member States, two Commission representatives and two scientific experts to be appointed by the European Parliament. A Director would be appointed for a period of five years.

## 2. General remarks

2.1. A strong and efficient authority for veterinary and phytosanitary inspection and supervision is needed for the efficient operation of the single market and increased consumer protection. It must have full powers to oversee the proper implementation of Community Directives and to check that Community requirements of third countries are fulfilled.

2.2. The crisis affecting much of the EU's beef production provides ample demonstration of the need for Commission arrangements for inspection and supervision in Member States and in third countries. In order to achieve a level playing field within the single market, all Member States need to follow and implement Council Directives.

2.3. The present Office's resources are insufficient to deal with the current situation. There has also been

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[1] OJ No C 239, 17. 8. 1996, p. 9.

a tendency to try and restrict its powers and cut its budget.

2.4. It is therefore important that the inspection authority should be provided with the resources it needs to operate effectively.

2.5. The proposed financial provisions are fundamentally flawed for several reasons, which will be discussed below.

2.6. If the management board is to operate effectively, its membership should be restricted. Member State impartiality can be maintained by rotating the term of office.

2.7. The Committee has not been convinced of the need to convert the existing Office into an Agency. Neither is such a conclusion reflected in the Council agreement of 29 October 1993. The Committee believes that the Office must be reinforced with a larger permanent staff, unless it is proven beyond doubt that the creation of an agency will have substantially better results for public health, consumer protection and the food industry.

## 3. Specific comments

### 3.1. *Justification for the proposal*

3.1.1. The Committee endorses the proposal's rationale on the Agency's competence and main areas of activity.

3.1.2. The Committee would, however, point out that the Agency's administrative and financial independence does not so much hang on the way it is funded, as on its procedural framework. Any funding which relies on Member State veterinary controls is likely to be uncertain, and will lead to disparities between Member States and the parties involved.

3.1.3. The Committee believes that a prerequisite for establishing the Agency is that it should be wholly funded through budget allocations, as is the comparable Environment Agency.

3.1.4. The Committee would also emphasize the need — when transferring the Agency to Ireland — to avoid setting up a similar administration within the Commission in Brussels. The result would be unnecessary duplication of effort, and confusion regarding competence.

### 3.2. *Article 2 — Objective*

3.2.1. The Committee considers that the list of foodstuffs for inspection should be clarified so as to include those listed in Appendix II to the Treaty.

3.2.2. Moreover, the Committee feels that the Agency's remit should include initiating proposals to the Commission and pointing out shortcomings within its area of activity.

### 3.3. *Article 4 — Management board*

3.3.1. In the Committee's view, the management board should consist of Member State representatives, the proposed scientific experts and Commission representatives, and also include representatives for both consumers and producers.

3.3.2. The Committee also feels that the two specialists in the field of veterinary and phytosanitary sciences should be appointed by the European Parliament, following proposals from the Commission.

3.3.3. For veterinary inspection, the Standing Veterinary Committee, and its phytosanitory counterpart, with their broad, representative membership from the Member States, will continue to exist.

3.3.4. The management board should be restricted to ten members at the most, with half covering phytosanitary inspection and the other half veterinary inspection. Members should be nominated by the Member States but appointed by the Commission. The term of office will pass from Member State to Member State by fixed rotation.

3.3.5. The term of office should be for a period of two years rather than the three years suggested in the proposal. The same should apply to the director and the deputy director.

3.3.6. There might be a case for requiring the management board to submit a proposal for its own rules of procedure, prior to approval in a Commission Decision.

3.3.7. The work programme should also be for a period of two years.

3.3.8. Article 4(9) should be amended to the effect that the Committee must also be consulted on the annual general report. It is natural that the Committee should be involved, given that its members represent inter alia employers, consumers and relevant trades union organizations.

### 3.4. *Article 5 — The director*

3.4.1. Article 5(1) states that the director shall be appointed for a term of five years. This could be useful for the exigencies of stability and continuity, and to ensure the director is not affected by temporary problems. On the other hand, it is also important that the management board should be able to intervene should the Agency's activities run foul of the established procedure.

3.5. *Article 6 — Budget*

3.5.1. The Committee firmly believes that the Agency can only be funded via specific budget allocations. It follows that Article 6(3) must be amended accordingly.

3.5.2. Monitoring of compliance with, and implementation of, existing Directives is a common priority and must be funded as such. There are currently great discrepancies in the scope and application of veterinary controls in the various Member States. Moreover, funding by means of fees would give rise to considerable monitoring problems and expense, both for the Member States and the Commission.

3.6. *Article 17 — Review clause*

3.6.1. Given the Committee's recommendations for changes in management board membership, and a shorter term of office, it is appropriate that the Agency's activities should be reported and assessed earlier than after the five years suggested in the proposal. The report should be compiled after two years at the latest, i.e. after the first term of office.

3.6.2. Similarly, Article 17 should also include a requirement to consult the Committee, together with the European Parliament, on the report which the Commission is required to produce. The Committee has an obvious role to play here, precisely because it includes representatives from several sections of society affected by the Agency's activities, who can provide useful, objective comments on its performance.

Brussels, 27 November 1996.

*The President*

*of the Economic and Social Committee*

Tom JENKINS

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*APPENDIX*

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

The following amendment was defeated during the debate:

**Point 3.3.4**

Delete and replace with the following:

'Half of the members of the management board should cover phytosanitary inspection and the other half veterinary inspection. Members should be nominated by the Member States but appointed by the Commission'.

*Result of the vote*

For: 40, against: 59, abstentions: 14.

# Opinion of the Economic and Social Committee on the 'Proposal for a Council Directive amending Council Directive 92/118/EEC of 17 December 1992 laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A(I) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC'

(97/C 66/14)

On 11 September 1996 the Council decided to consult the Economic and Social Committee, under Articles 43 and 198 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Agriculture and Fisheries, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 November 1996. The rapporteur was Turid Ström.

At its 340th Plenary Session on 27 and 28 November 1996 (meeting of 27 November 1996) the Economic and Social Committee adopted the following opinion by 106 votes to 1, with 2 abstentions.

## 1. Introduction — Background to the proposal

1.1. Directive 92/118/EEC lays down animal health and public health requirements for intra-Community trade in animal products which are not subject to the said requirements in specific Community rules, *inter alia*, in Annex A(I) to Directive 89/662, i.e. fresh meat, meat products, egg products, etc.

1.2. Directive 92/118/EEC states that whilst the trade in animal products should be liberalized, in consideration of the significant risk of the spread of diseases to which animals are exposed, special requirements should be specified for certain products of animal origin when they are placed on the market.

1.3. The directive introduced a system for the approval and inspection of third country imports. Certain products, including untreated hides and skins of ungulates, bones, horns and hooves, with a few exceptions may only be imported into the European Union from a third country which figures on a special list and from an establishment which complies with special requirements. The authorities in the relevant countries shall provide guarantees that the requirements are met. The establishments shall be registered in a Community list.

## 2. Gist of the proposal

2.1. The proposal to amend Directive 92/118 EEC provides a certain simplification of current import provisions. It means, for example, that the requirement to draw up a Community list for third country establishments would be waived for certain products which are not for animal or human consumption, apiculture products, game trophies, manure, wools, etc., and honey. It would be enough for the establishment to be registered with the competent authority in the third country.

2.2. For other products such as serum, blood and blood products, milk products not intended for human consumption, pet foods, lard and rendered fats, the proposal suggests that it is enough for the establishment of origin to be included in a list drawn up, according to special procedures, by the Standing Veterinary Committee.

2.3. It also proposes drawing up the health rules applying to meat of species not covered by specific requirements, in particular reptile meat.

## 3. Specific comments

3.1. The Committee has, in principle, no objections to simplifying this somewhat confused directive.

3.2. The Committee feels, however, that the proposed simplification should not cover unprocessed fowl manure. A Community list must be retained for this type of manure, since it carries a considerable risk of spreading disease (salmonella, avian influenza and Newcastle disease).

Brussels, 27 November 1996.

*The President*

*of the Economic and Social Committee*

Tom JENKINS

# Opinion of the Economic and Social Committee on the 'Proposal for a Council decision amending Council Decision 93/383/EEC of 14 June 1993 on reference laboratories for the monitoring of marine biotoxins'

(97/C 66/15)

On 17 October 1996 the Council decided to consult the Economic and Social Committee, under Articles 43 and 198 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Agriculture and Fisheries, which was responsible for preparing the Committee's work on the subject, adopted the following opinion on 5 November 1996. The rapporteur was Staffan Nilsson.

At its 340th Plenary Session on 27 and 28 November 1996 (meeting of 27 November 1996) the Economic and Social Committee adopted the following opinion by 102 votes to two, with one abstention.

## 1. Background

1.1. Council Directives 91/492/EEC and 91/493/EEC lay down the health conditions for the production and marketing of live bivalve molluscs and fishery products, in particular as regards the monitoring of marine biotoxins.

Under the terms of Council Decision 93/383/EEC each Member State must designate a national reference laboratory to monitor implementation of the provisions and coordinate the findings of the analyses. An annex to the decision contains a list of the reference laboratories designated by each Member State.

## 2. The Commission proposal

2.1. The United Kingdom has informed the Commission that owing to changed circumstances, it intends to designate a new national reference laboratory. The Commission proposes to amend Council Decision 93/383/EEC accordingly.

2.2. At the same time the Commission proposes to amend Articles 5 and 6 of the decision, to provide for any future revision of the annex following notification from a Member State.

## 3. Comments

3.1. The Committee endorses the Commission proposal to amend the annex to Council decision 93/383/EEC in accordance with the United Kingdom's designation of a new reference laboratory.

3.2. The Committee also endorses the amendments designed to enable the Commission to revise the annex, following notification from a Member State, without the need for a Council decision. This proposal is in keeping with the process of simplification of EU legislation and with the subsidiarity principle which must underpin cooperation.

Brussels, 27 November 1996.

*The President*

*of the Economic and Social Committee*

Tom JENKINS

# Opinion of the Economic and Social Committee on 'Relations between the EU and Canada'

(97/C 66/16)

On 23 November 1995 the Economic and Social Committee decided, in pursuance of Rules 23(3) of its Rules of Procedure, to draw up an opinion on 'Relations between the EU and Canada'.

The Section for External Relations, Trade and Development Policy, which was instructed to prepare the Committee's work on this matter, adopted its opinion on 17 October 1996 (rapporteur: Mr Rodriguez Garcia-Caro).

At its 340th plenary session held on 27 and 28 November 1996 (meeting of 27 November 1996), the Committee adopted the opinion set out below by 89 votes to two with seven abstentions.

## 1. Introduction

1.1. Canada and the European Union share a considerable joint heritage (in the historical, cultural and other fields) and relations between the two have traditionally been good. Furthermore, Canada is a member of G7 and NATO. In its role as member of NATO, Canada stationed troops in Europe until 1994. Canada also plays an active role in the various UN peace-keeping missions, for instance the recent mission in the former Yugoslavia.

1.2. Against the background of consolidation of the Uruguay Round Agreements and establishment of the World Trade Organization, a major boost was given to trans-Atlantic relations in Madrid in December 1995 with the adoption of a political declaration and a joint action plan by the EU and the United States. At the European Summit in Madrid, which followed on from this bilateral meeting, the Council expressed the hope that other Atlantic-coast democracies would share the aims of the new trans-Atlantic agenda.

1.3. It is however interesting to note that it was in fact Canada which initiated the revival of the trans-Atlantic debate. In 1992 the Subcommittee on External Trade of the Canadian House of Commons' Standing Committee on Foreign Affairs and External Trade issued a report on Relations between Canada and the New Europe. This report called for closer economic ties with Europe, including a form of free trade. Furthermore, after several declarations in support of free trade had been made by the then Canadian Minister for International Trade, Roy MacLaren, the Canadian Prime Minister, Mr Jean Chrétien, proposed, in an address to the French Senate on 1 December 1994, that an agreement be reached to liberalize trade between the European Union and the Nafta states. This initiative however fell victim to the disagreement on fisheries between the European Union and Canada in the spring of 1995 which led to a temporary freezing of bilateral relations.

1.4. In the wake of the fishing crisis, the Commission adopted, on 28 February 1996, a communication calling for the establishment of closer ties with Canada in order to bring about improved cooperation on economic, political and security matters. On 25 March 1996 the General Affairs Council asked the Council presidency and the Commission to enter into talks with the Canadian Government with a view to drawing up an EU-Canada political declaration and a joint action plan.

1.5. The EU and Canada were unable, despite many intensive discussions on the matter, to reach agreement on a political declaration and a plan of action at the last EU-Canada Summit, held in Rome on 27 June 1996. The main point of contention was the interpretation of the concept of 'extraterritoriality', an issue linked in part to the fishery problem.

## 2. The political situation in Canada

2.1. Canada is a federal state comprising two territories and ten provinces, the three main ones being Ontario, Quebec and British Columbia. The provinces have important powers in the fields of, for example, health, taxation and a variety of other regulations.

2.2. Canada is a parliamentary democracy (of which the Queen of the United Kingdom continues to be the Head of State) based on a House of Commons (which has a 5-year mandate) and a Senate whose members are appointed by the Prime Minister. Each province also has a legislative assembly, at the head of which stands a prime minister drawn from the majority party.

2.3. The present federal prime minister, Jean Chrétien of the Liberal Party, came to power following the elections in November 1993 which brought to an end two terms of office of the Conservative Party (Prime Minister: Brian Mulroney). The opposition comprises the Bloc Québécois (the pro-independence party whose members are drawn solely from the Province of Quebec) and the Reform Party (whose members are mainly drawn from the west of the country and which is seeking to bring about a considerable reduction in the role played by the State).

2.4. The main political event in Canada over the last year was the Quebec independence referendum of 30 October 1995. The outcome was a slender majority in favour of the 'No' campaign (50,6 % of the electorate voted 'no' as to opposed to 49,4 % voting 'yes', representing a majority of 53 000 votes from a total electorate of some 5 000 000). The turn-out for the referendum was a remarkable 93,5 % and some 60 % of French-speaking population of Quebec supported the 'yes' campaign. 15 years after the 1980 referendum (when 60 % of voters voted 'no') and a little more than one year after the accession to power in Quebec of the Parti Québécois, this result by no means puts an end to the debate; it rather leaves the province of Quebec more divided than ever over the question of independence.

2.4.1. Two developments took place in the wake of the referendum. First of all, the prime minister, Mr Chrétien, successfully introduced in the House of Commons a motion recognizing Quebec as a distinct society, giving Quebec, Ontario, British Colombia, the western region and the Maritime Provinces a veto on all future constitutional changes and awarding jurisdiction to the provinces in respect of occupational training. These measures were criticized by supporters of independence for Quebec who expressed doubts over their implementation and considered that they fell far short of Quebec's traditional demands.

2.4.2. A second consequence of the referendum was the resignation of the prime minister of Quebec, Mr Jacques Parizeau, and his replacement by the charismatic leader of the Bloc Québécois, Mr Lucien Bouchard. Mr Bouchard has clearly stated his intention to lead Quebec to independence and to hold a new referendum at a later date. The Quebec Government intends to serve out its full term of office (which has to come to an end by 1999 at the latest) and, if it is re-elected, to hold a further referendum in the ensuing months.

## 3. The economic and social situation in Canada

3.1. With a total surface area of approximately 10 million km$^2$, Canada is, in terms of surface area, the second largest country in the world. Its population, concentrated in an approximately 250 km wide strip running along the frontier with the US, does, however, number only 26 million. Canada is also the seventh most important economic power (GNP of CAD 750 billion in 1994). It has considerable natural resources, which vary from region to region and which have played a decisive role in the economic development of the country. Alberta is the main producer of oil and gas. There is a large mining industry in the western provinces, forestry is important in Alberta and British Colombia, whilst agriculture is the main activity in Saskatchewan. The Maritime Provinces, for their part, are rich in fishery resources and minerals. Ontario and Quebec, the two richest and most highly industrialized provinces, specialize in manufactured products (Ontario accounts for some 40 % of the national output) and British Colombia, too, is highly industrialized.

3.2. Canada has been a victim of the recession in recent years and has recorded negative growth rates (–1,2 % in 1992). In 1994 however it had the highest level of growth of all the G7 states (4,6 %). In 1995 a number of factors adversely affected the rate of growth (which was approximately 2 %), namely the measures which were taken to reduce the deficit, the slow-down in US economic growth and the uncertainties following the referendum in Quebec.

3.3. The fact that both the Bank of Canada and the Canadian Government have committed themselves to pursuing the goal of price stability by taking action, inter alia, in the field of interest rate policy, has kept inflation low, the rate for 1995 being 2,2 %

3.4. One of the main problems facing Canada is the size of its debt and PSBR. The level of the federal public debt increased from CAD 20 billion in 1971 (19 % of GNP) to over CAD 545 billion in 1995 (73 % of GNP). If the debts of the provinces are added to this figure the amount is equivalent to the overall level of GNP. 30 % of federal expenses currently go towards servicing this debt.

3.4.1. With a view to resolving this situation, which constitutes a threat to the country's future, the government has sought to reduce the fiscal deficit by privatizing a number of publicly-owned companies (Air Canada, Petro Canada), cutting back or cancelling a number of subsidies, reducing transfers to a number of other tiers of government and reducing the number of state employees. These reforms have had encouraging results since the fiscal deficit has fallen from 5 % of GNP in 1994-1995 to 4,2 % in 1995-1996, thereby making it possible to achieve the goal of a 3 % deficit in the 1996-1997 financial year. The ultimate goal is, of course, to achieve a balanced budget.

3.5. The Government's declared priority does, however, continue to be combatting unemployment. In contrast to the situation in the US, Canada has for several years been faced with a level of unemployment of the order of 10 % (10,4 % in 1994 and 9,6 % in 1995). The main aims of the Federal Government in this field are (a) to bring about economic conditions which are favourable to a revival of employment in the private sector by reducing the public deficit and interest rates, (b) to assist innovation and small businesses, and (c) to promote the expansion of Canada's foreign trade. The fourth pillar of government action is the reform of the social programmes, in particular the unemployment insurance programme, which has been changed into an 'employment insurance programme'. This latter programme places greater emphasis on helping people to resume employment, whilst at the same time providing improved assistance to low-income individuals and families.

3.6. The combined effect of the impact of budgetary cutbacks on the population, economic uncertainty as a result of the unfavourable situation on the labour market and the lack of institutionalized machinery for social consultations and social dialogue are the reasons for the development of a degree of social malaise in Canada. Even though opinion polls, have shown that most people support the drive to cut the deficits, the Federal Government's proposed tightening of the conditions of the unemployment insurance scheme has given rise to considerable protests. An even more demonstrative phenomenon has been the social unrest which followed the introduction of the policies of the new Conservative Prime Minster of the Province of Ontario, Mike Harris, which involved reducing social assistance and grants to municipalities and streamlining the health system.

3.7. When faced with the same financial difficulties the Government of Quebec opted for a different approach before embarking on difficult decisions. It introduced a consultation process (under the slogan 'Having the courage to take joint decisions') involving representatives of the full spectrum of society in Quebec with a view to reaching a consensus on the reform of the taxation system and ways of reviving employment. At the first conference, held in March 1996, which was given over to the economic and social future of Quebec, agreement was reached on the goal of eliminating the public deficit by the year 2000. A second conference (to be held in October 1996) will seek to draw up a new social pact in the autumn. Thereafter, it is likely that the consultation bodies which have been set up will continue to operate, in a way which has yet to be decided.

3.8. *Economic and social interest groups in Canada*

Companies

3.8.1. The National Business Council on Issues is the main body speaking on behalf of large companies in Canada on the subject of government policy at national and international level. The Council comprises the heads of 150 of Canada's leading companies. These companies operate in all of the main sectors of the economy and they are responsible for the bulk of private sector investment, exports, vocational training and R&D in Canada. The Council was a strong supporter of the free trade agreement with the US and the extension of that agreement to cover Mexico.

3.8.2. The Canadian Chamber of Commerce, the Manufacturers' Association of Canada (together with their various provincial branches) and the Canadian Federation of Independent Businesses also represent Canadian employers. There are also a number of representative organizations at provincial level, such as the Council of Quebec Employers.

Trade unions

3.8.3. The Canadian Labour Congress (CLC), which in Quebec also embraces the Fédération des travailleurs et travailleuses du Québec (FTQ), is the main trade union in Canada (the Canadian Federation of Labour is the second largest trade union). The CLC is the umbrella organization for a large number of federations with members working in many sectors of the economy. The CLC also has very close links with the New Democratic Party of Canada and a large number of associations, such as women's groups and environmental groups.

3.8.4. The CLC has spoken out against the deterioration in the social situation in Canada and expressed its virulent opposition to the Free Trade Agreement with the US and the subsequent Nafta accord. Although the CLC is represented throughout Canada, including Quebec where it is represented by the FTQ, a further general trade union operates in the latter province, namely the Confédération des Syndicats Nationaux (CSN).

3.8.5. Canada does not have the same tradition of consultations on labour matters as the EU. Collective bargaining generally takes place at plant level, with the exception of a number of sectors such as the motor-vehicle industry. Nevertheless, with a view to salvaging this situation, a number of sectoral councils, comprising representatives of the social partners, have been set up in recent years.

Farmers' organizations

3.8.6. The Canadian Federation of Agriculture (CFA) comprises provincial agricultural organizations and a number of associations of specialist producers (cereals, poultry, cattle, dairy products etc.). The CFA is obliged to include amongst its membership a number of highly contradictory interests ranging from cereal growers in the west of Canada, whose operations are very competitive and geared towards exports, to egg producers, whose market is extremely protected and covered by a supply-management system.

Consumer organizations and other citizens' groups

3.8.7. The Consumers' Association of Canada is the only such organization operating at national level. Although it has a significant influence, in view of the level of awareness of Canadian consumers, the Association nevertheless suffers from a lack of funds.

3.8.8. In addition to the consumer movement, there is also a number of other citizens' movements, for

example in the field of the environment, an area in which Canadians are particularly active. An additional sector, known as the 'community sector' has also emerged, especially in Quebec. The aim of this sector is to provide citizens with increased opportunities to participate in a large number of areas of the 'social economy' (health and social services, education, training, culture etc.).

## 4. Canadian external trade

4.1. Canada is highly dependent upon external trade for its growth since in excess of 30 % of Canadian GNP is linked to exports. Hence the particularly active role which Canada has always played in GATT and, more recently the WTO.

4.2. Canada is rich in natural resources and its main exports are wheat, crude oil, timber, pulp, paper and metals. As the result, in particular, of a long-standing agreement on motor-vehicle products with the US, which exempted bilateral trade in these products form customs duties, Canada is a major exporter in this field. It also exports considerable amounts of telecommunications equipment, aircraft and rolling stock. The main Canadian imports are finished goods, machinery, capital goods, electronic products and consumer goods. In 1995 Canada had a record trade surplus of CAD 28,3 billion which was triggered by a strong growth in exports brought about by the economic revival in the US.

4.3. There is a considerable imbalance in Canadian external trade since the US is far and away the leading trading partner. 70 % of Canadian imports come from the US and over 80 % of its exports go to its southern neighbour. There has been an increase in these percentages in the last few years as a result of the entry into force in 1989 of a free trade agreement with the US. Canada's main aim at the time was to achieve a degree of security in respect of its trade with the US, in the face of increasing US moves towards protectionism.

4.4. On 1 January 1994 the North American Free Trade Agreement (Nafta) came into force, linking Canada, the United States and Mexico. The main aim of the agreement is to remove customs' barriers and most non-customs' barriers over a period of 10 years, to liberalize investment flows and to establish a mechanism for settling disputes over dumping and countervailing duties.

4.5. With a view to circumventing the lack of urgency on the part of the US to bring Chile within the scope of Nafta, Canada entered into talks at the beginning of 1996 on a free trade agreement with Chile. Furthermore, as a member of Apec (Asia Pacific Economic Cooperation) and the Organization of American States, Canada is involved in the measures to promote trade liberalization initiated by these two bodies.

## 5. Canada enjoys good relations with the EU ...

5.1. In 1976 the Canadian Prime Minister of the day, Mr Pierre-Elliot Trudeau, was instrumental in the conclusion of a framework agreement for economic cooperation between Canada and the European Communities. Under this agreement the two parties committed themselves to increasing and diversifying their trade, promoting economic cooperation and encouraging and facilitating the establishment of joint ventures.

5.1.1. The above agreement, which was regarded at the end of the 1970s as an important stage on the road towards closer relations between Canada and the European Communities, did not however produce all the anticipated commercial benefits and did not prevent disputes. It did however make it possible to set up lines of communication on economic and trade issues, in the form of a joint cooperation committee and a number of working parties (on commerce and investment, telecommunications and information technology, minerals and metals and timber products and paper).

5.2. The basis for trade between the European Union and Canada is the 'most favoured nation clause'. Canada is the EU's ninth ranking trading partner whilst the EU is Canada's second most important trading partner. In 1994 the value of total EU imports (goods and services) from Canada was ECU 12,1 billion whilst EU exports to Canada totalled ECU 13,2 billion.

5.2.1. In recent years there has been a degree of stagnation in trade (as regards trade in goods but not trade in services) between the EU and Canada because of general economic conditions and also undoubtedly because of the diversion of trade flows in the wake of the signing of preferential agreements. In 1994 exports by the 12 EU Member States represented 1,75 % of the EU's total exports (as opposed to 2,23 % in 1990) and imports into the EU from Canada represented 1,7 % of total imports (2,05 % in 1990).

5.2.2. The main EU exports to Canada are machinery, rolling stock, manufactures and chemical products. The EU's main imports from Canada are wood pulp, aircraft, aluminium, newsprint and timber used in the construction industry. The UK and Germany have the closest commercial ties with Canada.

5.3. Although the level of trade between the EU and Canada remains somewhat disappointing, foreign investment trends are more satisfactory. Overall direct investment by Canada in the EU is in excess of ECU 15 billion. The European Union is the second most important beneficiary of Canadian foreign investment

(after the US), accounting for a share of 20 % in 1994, as against 12,5 % in 1985. Total EU investment in Canada amounts to approximately ECU 20 billion. The EU is the second most important source of foreign investment in Canada (some 20 %).

5.4. Political relations between the European Union and Canada are defined by the Transatlantic Declaration of November 1990. The Declaration is in similar vein to that signed a little earlier by the European Union and the United States; it sets out the joint objectives and challenges and points to the need to strengthen cooperation in the scientific, economic and cultural fields. In particular, the 1990 Declaration provides for regular contacts at the highest level, namely between the President-in-Office of the EU Council, the President of the EC Commission and the Prime Minister of Canada. The mechanism established in 1990 has worked quite well and has made it possible to consolidate the ongoing dialogue at both political and administrative levels.

**6. ... but EU-Canada relations are confronted by a number of problems**

6.1. A number of long-standing problems continue to mar bilateral relations, sometimes leading to periods of considerable tension.

6.2. The fisheries dispute is of course the most well-known, following the crisis in spring 1995 over the fishing of Greenland halibut in international waters. This issue has been poisoning bilateral relations for a number of years. In 1981 an agreement was signed following four years of negotiations. In December 1992 a further agreement was concluded with the aim of finding a satisfactory solution to the issues of conservation, optimal use and prudent management of stocks within the area regulated by the Northwest Atlantic Fisheries Organization (Nafo) and in Canadian waters.

In this connection Canada has not ratified the memorandum of understanding derived from this agreement. This is harmful to the Community fishing sector, mainly as regards:

a) authorization for EU fishing vessels to enter Canadian ports and use their facilities;

b) availability to the EU of Canadian fish surpluses from its exclusive economic zone, bearing in mind the interest which the EU has always shown in surpluses of certain species;

c) authorization for EU vessels to participate with Canadian firms in trade agreements concluded under development programmes and other fisheries programmes.

6.2.1. On the occasion of the 1995 dispute the EU condemned as illegal the measures taken by the Canadian authorities, namely the boarding of a Spanish trawler in international waters — thus violating fundamental and universally accepted precepts of international law — and the unilateral application of a moratorium on fishing for Greenland halibut in the area covered by Nafo. After a period of heightened tension an agreement was concluded on 16 April 1995.

6.2.2. This agreement, which was accepted by the twelve other members of Nafo in September, regulates the allocation of fishing quotas for 1996 and establishes new conservation and monitoring measures. In a further development Canadian ports were re-opened to EU fishing vessels in June 1996.

6.2.3. Even though the tension which prevailed in 1995 has subsided, the fishing issue has not been finally settled. There has been a sharp reduction in Canadian fish stocks; this has brought about economic consequences for the population of Newfoundland and introduced a domestic policy element which will make it difficult to reach any compromise in the long term. Furthermore, following the boarding of one of its fishing vessels, Spain has brought an action against Canada in the International Court of Justice. Pending the Court's ruling (which is expected to be delivered by the end of 1997), it is doubtful whether Canada would enter into any commitment which could damage its cause.

6.3. A number of problems have also arisen over the issue of the use of leg-hold traps. Council Regulation No 3254/91 prohibits the use of these traps in the European Union with effect from 1 January 1995. With effect from that date it also bans imports of furs and fur products from countries which authorize the use of leg-hold traps or which use trapping methods which do not correspond to international animal welfare criteria.

6.3.1. In 1995 implementation of these provisions was postponed with respect to Canada. Canada opposed the implementation of these measures on the grounds that its native peoples, in particular the Inuits, were highly dependent upon fur trading. This issue will arise again if no international standard is laid down by the International Organization for Standardization (ISO) or if the working party established by the European Union, Canada, the US and Russia fails to come up with tangible results. In its Opinion on the proposal for a Council Regulation, under which there would be a further one year delay in the implementation of the 1991 Regulation, the Committee expresses its concern over the fact that the Commission failed to pay adequate attention to

defining the surveillance procedures for ensuring that animals were trapped humanely. The Committee also makes a number of other requests, namely:

— that a binding timetable be drawn up for negotiations with non-EU countries;

— that the Commission consider the issue of providing technical assistance to populations which use traditional methods of hunting with a view to getting them to agree to introduce humane methods of trapping;

— that the negotiations include a 'transparency clause', which would provide for the attachment to imported products of a declaration in respect of the methods employed in capturing and slaughtering the animals concerned and the place of capture;

— that, on a more general note, the Commission should agree to amend the existing agreements with non-EU states and to negotiate future agreements with a view to the inclusion in the agreements of a jointly binding clause on cooperation in the field of environmental protection.

6.4. A number of disputes over agricultural products, in particular wheat, boned beef and pasta products have been resolved in the course of the negotiations on offsetting the negative consequences for Canada of the enlargement of the European Union (Article 24.6 of the WTO rules).

6.5. Other problems remain, however, such as the presence of nematode worms in pinewood, clear-felling in Canadian forests, which has prompted protests from Europe, designations of wine and spirits and commercial practices pursued by provincial organizations dealing with sales of alcoholic products.

## 7. Finding a new impetus to relations between the EU and Canada

7.1. The Committee welcomes the initiative taken by the Commission in respect of Canada. In the Committee's view comprehensive and balanced transatlantic relations are inconceivable without full participation by Canada.

7.2. There is a need to recognize the special character of Canada, which to some extent represents a half-way house between what some refer to as the 'US model' and the 'European model'. It is also necessary to take account in bilateral relations of the internal diversity of Canada — in particular the co-existence of the English-speaking and French-speaking communities.

7.3. The Committee shares the assessment of both the Commission and the Council that the similar nature of the challenges inherent in EU-US relations and EU-Canada relations call for the same procedural approach to be adopted in respect of both of these links. A new institutional framework is thus not necessary. The Committee also shares the Commission's view that the approach adopted will have to be tailored to the scale and specific nature of EU-Canada relations.

7.4. The Committee regrets that at the Rome Summit it was not possible to conclude the negotiations on the formulation of an action plan involving the EU and Canada. The Committee calls upon the Council Presidency and the Commission to resume as soon as possible the negotiations with Canada on the plan of action so as not to lose the momentum generated at the beginning of the summer. The Committee urges that a firm stand continue to be taken in respect of the interpretation by Canada of the concept of 'extra-territoriality'. It is unacceptable, for obvious reasons of principle, for Canada to interpret this concept in differing ways, depending on whether the issue involved is, on the one hand, the application of the Helms-Burton Act or, on the other hand, the boarding of a foreign vessel in international waters.

7.5. Whilst maintaining a firm stand as regards ensuring that international principles and regulations are respected, agreement on the plan of action should not, however, be dependent on achieving a definitive settlement of the fishery dispute. The Committee also considers that failure to agree upon a plan of action must not jeopardize the ongoing negotiations on certain issues or the initiation of discussions on other matters.

7.6. In the light of the Communication issued by the Commission, the EU-Canada plan of action is to comprise four main parts: foreign policy and security; international problems; trade, cooperation and investment; and a section dealing with the intensification and broadening of the dialogue between the EU and Canada.

## 8. Foreign policy and security

8.1. The Commission points out in its communication that:

> 'the developing role of the European Union in international affairs and the international stance of Canada on global issues, coupled with their shared values, makes an improved level of coordination and cooperation between Canada and the EU in areas of foreign policy desirable.'

Mention is made of a number of areas where there is a potential for increased cooperation, such as European-Atlantic security, human rights in the newly independent States (NIS) and the reform and strengthening of the UN.

8.2. Closer cooperation is also proposed in connection with humanitarian goals. In this context, attention is drawn to the fact that the measures taken by Canada to reduce the government budget deficit regrettably bore particularly heavily on public development aid programmes, the budget for which has been cut from CAD 3 billion to CAD 2,2 billion over the last three years. Nonetheless, the EU and Canada largely share the same objectives in the field of humanitarian aid and contribute an essentially equivalent proportion of their GNP (0,4 %) to development aid. The Committee would encourage the Commission to strengthen cooperation with Canada in these important fields. The establishment of a mechanism for promoting coordination and staff exchanges between the Commission and the Canadian International Development Agency might also bring about improved coordination of work in this field.

8.3. The Committee has frequently expressed its concern over increasing poverty in Africa and the isolation of that continent. Canada shares this concern since Africa is the main recipient (44 %) of state development aid provided by Canada. There is scope for joint action in this regard.

## 9. International issues

### 9.1. *Justice and internal affairs*

9.1.1. The Commission points out in its communication that since the EU Treaty, and in particular Title VI of the Treaty, dealing with cooperation in the areas of justice and internal affairs, came into effect, many non-EU states, including Canada, have expressed interest in actively collaborating with the EU in these areas. The potential areas for such collaboration include: immigration matters and the right of asylum; organized crime at international level; drug trafficking and money laundering; measures to combat terrorism and the smuggling of illegal immigrants.

9.1.2. The Committee fully shares these concerns. It is however convinced that effective transatlantic cooperation — which is essential if we are to meet the above-mentioned world-wide challenges — will only be achieved once the EU is in a better position to put forward a common front on these matters. This is one of the issues which should be addressed at the Intergovernmental Conference.

### 9.2. *The environment*

The Committee supports closer cooperation with Canada in the field of environmental policy, an area in which Canada has considerable experience. Joint action could be taken by the EU and Canada to promote the conclusion of international environmental agreements. By way of an example, Canada and the European Union, unlike the US, have adopted a similar approach in the field of eco-labelling which provides good grounds for intensifying the dialogue and the search for joint solutions.

## 10. Trade, cooperation and investment

### 10.1. *Multilateralism*

10.1.1. The Committee reiterates its commitment to a multilateral approach and to the consolidation of the World Trade Organization. Against this background, it welcomes the talks rightly being planned with Canada on the issues which were not finalized in the Uruguay Round talks, public contracts, direct foreign investment and new trade policy issues.

### 10.2. *Transatlantic context*

10.2.1. Canada's leaders have on a number of occasions proposed that talks be held on a transatlantic free trade agreement or even an EU-Canada free trade agreement. The Committee recognizes that these proposals were very useful inasmuch as they stimulated reciprocal consideration of this issue by the various parties. The Committee does however share the views of the Commission that such a step would be premature, inasmuch as it could jeopardize consolidation of the achievements of the Uruguay Round agreements and there could also be considerable difficulties standing in the way of the realization of such a measure. Furthermore, the level of trade between the EU and Canada is clearly relatively low and stagnant and the Canadian economy is geared to a very large extent to the north American market; no agreement, not even a free trade agreement, will be able to change this latter situation.

10.2.2. The Commission proposes that Canada and the EU carry out a joint study on ways of facilitating trade in goods and services and reducing or even removing tariff and non-tariff barriers. The Committee would ask the Commission to keep it briefed on progress made with this study and the outcome of the study. The Committee also asks for studies to be carried out into ways of increasing and facilitating investment, in particular investment in SMEs. The Committee does, however, wonder whether there is a linkage between the aforementioned joint study and the study which the EU has agreed to carry out with the US on the same subject. In this context the Committee wonders why the term 'new transatlantic market' does not figure in the definition of the policy towards Canada, since it constituted an important chapter in the collaboration agreed upon with the US. The Committee would once again draw attention to the need for an in-depth consideration of a joint strategy vis-à-vis the three members of Nafta.

10.3. *Bilateral trade*

10.3.1. Bilateral trade relations between the EU and Canada have frequently fallen foul of disputes, some of which could have lead to major conflicts. Even though several of these problems have recently been resolved, the potential for conflict remains. A large number of these conflicts are clearly linked to the different standpoints adopted with regard to environmental issues by Canada and the EU. Cases in points are the approaches adopted with regard to baby seals, fisheries, forest-based products and leghold traps. In this context the Committee calls for more emphasis to be placed on seeking to establish a dialogue on environmental matters and the link between these issues and trade.

10.3.2. The Committee welcomes the Commission's intention to seek ways of avoiding a repetition of these problems by making more effective use of the mechanisms to provide early warning of impending disputes. It does however regret that this proposal seeks only to strengthen the existing mechanisms which have by no means demonstrated their effectiveness in the past. The establishment of a 'conflict prevention' system is something which the Committee has called for on several occasions in the past. Recognizing that most of the bilateral disputes can be traced back to action taken by interest groups in the EU or Canada, the Committee suggests that the transatlantic dialogue be extended to embrace these groups in order to involve them in a dispute prevention mechanism.

10.4. *Cooperation in the field of regulations*

10.4.1. The Committee supports the Commission's approach of giving priority to achieving cooperation in the field of regulations as a means of promoting trade.

10.4.2. The Committee supports the conclusion, as soon as possible, of an agreement on the mutual recognition of standards and conformity assessments (which include certification and testing procedures). The Committee would also reiterate its call for the greatest possible use to be made of international standards. All the interest groups concerned should be involved in the process of establishing standards.

10.4.3. Negotiations are underway with a view to sealing agreements in the field of competition policy and customs cooperation. The Committee also calls for increased cooperation with a view to facilitating access to the financial services markets.

10.4.4. Increased cooperation in the field of regulations should cover a broader field — it should embrace consultations with the interest groups which are concerned by these regulation policies. Consultations should cover not only commercial interest groups but also trade unions, consumer organizations and non-governmental organizations.

10.5. *Cooperation in the fields of employment policy and social policy*

10.5.1. The promotion of areas of joint interest relating to employment policy and social policy are two of the aims of the process of giving a new impetus to relations with Canada. The exchange of experience and ideas with regard to (a) measures to combat unemployment, (b) job-creation, (c) the links between employment and new technology, (d) vocational training, (e) life-long education and training, and (f) health and the safeguarding of social provisions could be highly beneficial. At the present time Canada and the EU both have to face very similar problems.

10.5.2. The Committee urges that dialogue should not be restricted to representatives of the administrations but be broadened to include the social partners. Bearing in mind its experience in these fields, it would be helpful for the Committee to play a part in the talks designed to bring about better mutual understanding and to find common solutions, whenever possible.

11. **Broadening and intensifying the dialogue**

11.1. The final part of the Commission's strategy is to broaden the scope of the transatlantic dialogue to include the business world and civil society and new areas, such as education, culture and science. The Committee does, of course, fully support this goal. In its earlier Opinion on EU-US relations, the Committee pointed out that:

> 'By extending the commercial dialogue currently being promoted, transatlantic cooperation between economic and social interest groups would have the beneficial effect of placing upon a broader footing a dialogue which has so far largely been carried out by a relatively small group of experts drawn from political and security circles'.

11.2. The Commission thus proposes to establish a dialogue between businesses, based on the dialogue between EU and US businesses. It is also planned to strengthen cooperation activities in the field covered by the recently concluded bilateral agreement on science and technology and in the field of joint programmes relating to the information society, in particular in the area of multi-media use in education and culture. The Committee welcomes these plans.

11.3. The Committee also welcomes the proposed joint examination of regional policy issues as the European Union and Canada have to face similar challenges in this field.

11.4. The Committee urges that full use be made of the cooperation mechanisms provided for under the recently concluded agreement on higher education and vocational training, although it would question whether the conditions of participation laid down in this agreement (participating institutions have to be drawn from two different EU Member States and two different Canadian Provinces) are not too restrictive. The Committee also calls for the speedy introduction of mutual recognition of courses of university study and university qualifications.

11.5. The Committee urges that the scope of the dialogue between the EU and Canada be extended to include the interest groups operating on both sides of the Atlantic. If there is to be full participation in the bilateral dialogue, there is a need to include in the dialogue groups representing workers, farmers, consumers and environmental organizations. A constructive dialogue could be held on a large number of issues, such as

— economic and monetary issues;

— the promotion of sustainable development; public development aid; and the situation in Africa;

— the comparison of experiences and policies with regard to job-creation, vocational training, health and social services;

— environmental protection policy and the links between trade and environmental issues;

— consumer information and protection;

— the differences between the agricultural policies pursued by the two parties; reciprocal reductions in subsidies; support for agriculture; and environmental protection;

— the comparison of experiences in the field of regional policy;

— innovatory measures taken by NGOs and the involvement of civil society — the form of such involvement and the areas in which it could take place; and

— cultural exchanges and contacts between young people.

11.6. Bearing in mind the dynamism of civil society in Canada and the very enthusiastic welcome given to the idea of a broader dialogue in Canada, the Committee calls for the holding of an annual meeting to debate a number of the abovementioned issues. The aim of these meetings would be to improve mutual understanding, to provide a means of preventing disputes and, finally, to involve civil society — and consequently the population at large — in the transatlantic dialogue which has all too often been the prerogative of specialists. The Committee hopes that the conclusion of the joint EU-Canada action plan will stimulate the Committee to continue its work in this field.

Brussels, 27 November 1996.

*The President*

*of the Economic and Social Committee*

Tom JENKINS

*APPENDIX*

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

The amendment set out below, which was supported by at least a quarter of the votes cast, was rejected during the debate:

**Point 7.5**

Replace the text with the following:

'In any case, the necessary firmness concerning the respect of international principles and regulations implies that achieving a plan of action should not hinge upon the absolute need to resolve the anomalous situation currently arising from Canada's failure to ratify the Fisheries Agreement it signed in 1992, which encompassed opening Canadian ports to EU vessels, the creation of joint EU-Canada companies and access to fish surpluses. This would represent a major step forward, through mutual understanding, in normalizing EU-Canada relations in which fishing aspects have assumed vital importance, bypassing — without in any way underestimating — the dispute currently before the International Court of Justice.'

*Reason*

The proposed amendment, although basically saying the same thing as the original version , is more specific and concise.

*Result of the vote*

For: 31, against: 50, abstentions: 19.

# Opinion of the Economic and Social Committee on the 'Communication from the Commission to the Council and the European Parliament on the future of social protection: a framework for a European debate'

(97/C 66/17)

On 8 November 1995, the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the 'Communication from the Commission to the Council and the European Parliament on the future of social protection: a framework for a European debate'.

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 November 1996. The Rapporteur was Mr Laur and the Co-Rapporteurs were Mr Meriano and Mrs van den Burg.

At its 340th Plenary Session held on 27 and 28 November 1996 (meeting of 28 November 1996), the Economic and Social Committee adopted the following opinion by 67 votes to 41, with 15 abstentions.

The present opinion on the future of social protection takes account of the following two-fold objective:

— on the one hand, it is necessary today to seek to make national rules and practices on social protection more compatible;

— on the other hand, pursuit of this objective must take account of the culture of each Member State, in accordance with the subsidiarity principle. This means that the management of expenditure related to social protection is essentially a matter for the Member States.

## 1. Introduction

1.1. The European Commission sought to initiate a European debate on the future of social protection with its Communication COM(95) 466 of 31 October 1995. The debate is intended to take the form of a joint analysis by the Community institutions, the European Social Dialogue and Member States, which should lead to 'an appropriate follow-up' by the end of 1996.

1.2. The initiative is based on the underlying objective of social cohesion and solidarity in order to maintain or attain a high level of social protection, a task that is referred to in Article 2 of the Treaty on European Union. Together with the role and interest of the Union in the field of freedom of movement, this fundamental objective led to the convergence strategy, which was formulated in two Recommendations in 1992: 92/441/EEC of 24 June 1992 and 92/442/EEC of 27 July 1992. In these Recommendations the Member States jointly agreed on the need to maintain, adapt and develop their social protection systems and set themselves common objectives.

1.3. The Communication gives specific reasons that are related to recent policy efforts and the new debate on whether by reducing indirect labour costs or through the combined effects of tax and aid schemes, social protection systems can be more employment-friendly and efficient.

1.4. The Communication outlines some of the main features of recent and expected future developments, and focuses on seven specific issues for further analysis and common reflection. The last of these ('reflection on the future of social protection in the longer term') in particular, may cover several trends and problems that have been examined in other Committee Opinions, such as the change in working patterns and life-cycle/family patterns. As is pointed out in paragraph 2.3 of the Communication, demographic trends cannot be restricted to population ageing; the progressive transformation of family structures is also mentioned here, leading to the need for a shift of focus from the family 'breadwinner'/single wage-earner, to all individual workers, including those in 'new' forms and patterns of work. The fact that such patterns change throughout working life should also be given due attention [1].

## 2. Social protection in Europe

2.1. In its November 1991 Opinion on the Proposal for a Council Recommendation on the convergence of social protection objectives and policies, the Economic and Social Committee started off discussing social protection (and social security) by evoking the principle of social cohesion. The Opinion states:

> 'Social security should be interpreted as "social cover" based on the principle of social cohesion and extended to any person, legally resident in the

[1] See ESC Opinion on Working Time, OJ No C 18, 22. 1. 1996.

Community, when in need and justifiably requiring protection against certain risks (...). Such protection, provided in the event of sickness, accident, maternity, unemployment (...), old age and family problems, guarantees the resources required to maintain an adequate standard of living in order to prevent the social exclusion of those in question (...). Social protection is intended to offset the risks set out above, and has been shaped by various international and Community agreements and Opinions' (1).

If we add parental education leave to this list, it encompasses all forms of social protection, representing assurance against risks, and the need for social cohesion.

2.2. Section 1.1 of the Commission communication defines social protection as a range of collective transfer mechanisms designed to protect the inhabitants of a country against social risks.

2.3. Social protection is a fundamental part of the European social model. It inspires confidence, promotes social cohesion and helps create a sense of community among Europeans.

2.4. Across the Community, social protection systems are based on solidarity between individuals. Solidarity finds expression in the welfare state tradition and the 'mutual-benefit' insurance systems.

2.5. One characteristic of social security systems throughout the Community is their tremendous diversity. As a number of studies have shown (2), differences emerge in risks covered, access rules, benefits structure, the level and source of the financial resources concerned, the actors involved in the decision-making process and the way the various systems are managed.

2.6. The diversity which exists is undoubtedly a result of differing conditions, each Member State having combined or drawn upon in its own way various elements of the Beveridge and Bismarkian systems.

2.7. Nevertheless, the various systems have much in common as regards objectives, risks covered and guaranteed minimum standards, not only within the purview of the European Community, but also in other international contexts. A number of international arrangements collate the minimum-standards clauses adopted by most EU Member States. The 1952 ILO Convention 102 has been ratified by thirteen Member States (3), with the same number having ratified the 1964 Council of Europe European Code of Social Security (4). The revised 1990 Council of Europe Social Security Code has been signed by ten Member States (5).

2.8. The Commission Report on Social Protection in Europe (6) also notes that, on a wider comparative base, European social protection systems stand out from those in other parts of the world, for example the United States and Japan, and bear a number of similar traits. The Commission report gives an exhaustive overall picture.

2.9. There is widespread agreement that the completion of the single market and the conclusion of economic and monetary union (EMU) should not be deleterious to social protection. A number of surveys (7) have shown that people in Europe are extremely worried about the impact of EMU on social protection, poverty and exclusion.

(1) OJ No C 40, 17. 2. 1992, Sections 1.4, 1.5, 1.6.

(2) Cf, for example, Danny Pieters, Introduction into the social security systems of the European Community Member States, Brussels, 1993, and the first chapter of the European Commission Report on Social Protection in Europe 1995 (COM(95)457final).

(3) The eight risks covered by ILO Convention 102 are: Part II: medical care; Part III: sickness benefits; Part IV: unemployment benefit; Part V: old age pensions; Part VI: benefits in respect of an accident at work; Part VII: family allowances; Part VIII: maternity benefits; Part IX: invalidity benefits; Part X: survivors' allowances. The EU Member States have ratified this Convention as follows: Germany: Parts II to X; Austria: Parts II, IV, V, VII and VIII; Belgium: Parts II to X; Denmark: Parts II, IV, V, VI and IX; Spain: Parts II to IV and VI; France: Parts II and IV to IX; Greece: Parts II to VI and VII to X; Ireland: PartsIII, IV and X; Italy: Parts III to VI; Luxembourg: Parts II to X; Netherlands: Parts II to X; United Kingdom: Parts II to V, VII and X; Sweden: Parts II to IV, and VI to VIII.

(4) The following thirteen EU Member States have signed the 1964 European Social Security Code: Germany, Belgium, Denmark, Spain, France, Greece, Ireland, Italy, Luxembourg, The Netherlands, Portugal, the United Kingdom and Sweden.

(5) To date, the following countries have signed the revised Code, which was updated on 17. 7. 1995: Germany, Belgium, Finland, France, Greece, Ireland, Italy, Luxembourg, The Netherlands, Portugal and Sweden.

(6) Social Protection in Europe 1995, Commission Report, 31. 10. 1995, Chapter I.

(7) Eurobaromètre, Spring 1992, on social protection.

## 3. Objectives and instruments of social protection at European level

3.1. Commitment to 'a high level of employment and of social protection' is a key element of the European Union. Article 2 of the Treaty is unequivocal on this point.

3.2. When the Treaty of Rome was being drawn up, an in-depth discussion took place on the need to harmonize social protection in order to avoid social security becoming a factor of distortion and competition among the Member States. Harmonization means standardizing legislation on the systems, the risks covered and the (minimum) level of protection required, and could also necessitate the establishment of Community guarantee or cohesion funds. The move towards harmonization was subsequently abandoned. In its place, the European Community focused on coordinating social security systems. The term 'coordination' means establishing legal, technical and administrative links between social protection systems to ensure a fair level of protection for migrants within the Member States. Moves towards coordination therefore do not alter the basic traits of the various systems. These mechanisms are laid down in Regulations 1408/71 and 541/72. Coordinating very diverse systems is undoubtedly a complex issue, especially since social security systems have been subject to numerous and far-reaching reforms and developments over the past few years.

3.3. Towards the end of the 1980s, a new approach was adopted at Community level via Commission initiatives aimed at convergence in social protection. The 1992 Recommendation defines the goal of the convergence strategy as the setting of common objectives to guide Member States' policies in such a way that different national systems can exist side by side and allowing them to work in harmony together in pursuit of the Community's basic goals [1]. Nonetheless, this Communication explicitly states [2] that because of the diversity of the systems and the fact that they are rooted in different national cultures, it is up to the various Member States to decide how to operate these in practice, how they should be financed and how their system of social protection should be organized. The only obligation incumbent on the Member States was to submit evaluation reports and to arrange for regular exchanges of information on their policy development [3]. The attitude of the Council over the years following the two Recommendations has been restrictive.

3.4. In its Opinion of November 1991, the Economic and Social Committee had already pointed out the contradiction between the principle of setting joint objectives — a proposal it backed — and the absence of practical means for applying it. The Committee stressed the importance of reducing the disparities between the Member States and the need for a 'realistic, and most importantly, dynamic, perspective' [4].

3.5. In the field of social protection, the Member States have vigorously defended national sovereignty by invoking the principle of subsidiarity, as enshrined in Article 3b of the Treaty of Maastricht [5].

3.6. The principle of subsidiarity is of particular relevance as regards social protection. Under Article 118, the Commission has the task of promoting close cooperation between Member States. To achieve the objectives set out in Article 117, it is of crucial importance to work together with charitable associations and foundations as institutions responsible for social welfare establishments and services.

3.7. Article 3b refers to cases in which the objectives set can 'by reason of the scale of effects of the proposed action' be better achieved by the Community. This raises the question of how to evaluate whether an objective can be achieved sufficiently and what is meant by efficiency, particularly in the issue of how to apply social and economic criteria arising from other provisions in the Treaty in general, and the objectives of social cohesion and solidarity in particular (Article 2 of the Treaty on European Union) [6].

3.8. If the subsidiarity test is applied to social protection, two reasons emerge for enhanced cooperation in

(1) Council Recommendation of 27. 7. 1992 on the convergence of social protection objectives and policies, 6th, 7th and 8th recitals (OJ No L 245, 26. 8. 1992).

(2) Ibid, 9th recital.

(3) Ibid. final paragraphs.

(4) ESC Opinion of November 1991, OJ No C 40, 17. 2. 1992.

(5) Article 3b: 'The Community shall act within the limits of the powers conferred upon it by this Treaty and of the objectives assigned to it therein. In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objective of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale of effects of the proposed action, be better achieved by the Community. Any action by the Community shall not go beyond what is necessary to achieve the objectives of this Treaty.'

(6) See, for example, Brian Bercusson's article The Dynamic of European Labour Law after Maastricht, in Industrial Law Journal, vol. 23, No 1, March 1994, p. 14.

efforts at convergence in goals and policies within the EU as set out in the 1992 Council Recommendation [1]:

1) the weaknesses of coordination policy both in respect of the social protection schemes and the tax issues surrounding these schemes, which are due largely to the diversity of the systems which exist within the European Union and which greatly hinder the free movement of workers;

2) the impact of social and tax-related competition among Member States, which tends to lead to the dismantling or 'downward' convergence of social protection.

3.9. The completion of the single market and the conclusion of economic and monetary union (EMU) cannot but have an impact on national policy on social protection, and should not be achieved in such a way as to lower social protection standards and distort the tax system. Trends towards social and tax-related competition among the Member States are increasingly running counter to the principle of solidarity and the goal of promoting a high level of employment and social protection.

3.10. A paradox is emerging in the concept of national sovereignty and subsidiarity in the field of social protection similar to that recently described in the reflection document on taxation in the European Union [2]: 'The apparent defence of national sovereignty in taxation matters has progressively led to a real loss of tax sovereignty for each Member State to the profit of the markets...'.

3.11. Recognition of this paradox and assessment of the real trends which exist in the field of social protection and which have an — albeit indirect — impact on the single market and EMU policy should lead to a more active convergence strategy in the sense set out in Article 3b of the Treaty. Article 2 of the agreement on social policy already provides for qualified majority voting on social issues of relevance to 'the integration of persons excluded from the labour market'.

3.12. The Economic and Social Committee's response to the problems raised by the Commission should be, as in 1992, that there are real arguments in favour of the development of a more dynamic European Union strategy for promoting convergence in social protection, obviously with due respect for national cultures and practices. This convergence should be based on the basic goals already contained in the Treaty and in the welfare-state traditions of the Member States, and should be confirmed by the international norms these countries have accepted. They should shore up and enhance social cohesion and prevent regressive policies from dragging everything down to the lowest common denominator.

## 4. What future for social protection in Europe?

4.1. In order to maintain the legitimacy of such a debate within a European organ, the present paper covers the issues listed in 3.4 of the Commission document in general terms.

4.2. Social protection will therefore be discussed with reference to its impact on employment, its financing, the effect of population ageing, its adaptation to the single market, health-care systems and measures to combat exclusion.

4.3. *A — Adapting social protection to the employment situation*

4.3.1. Employment is at the heart of the debate on social protection and any development in the latter must help in the pursuit of employment-enhancement.

4.3.2. Indeed, the Commission recognizes that the impact of population ageing could be offset by a rise in employment levels which would make it easier to fund social protection.

4.3.3. As life expectancy rises, benefits are paid out for longer periods without this relative increase being offset by a corresponding rise in contributions, since, in some Member States at least, pensioners pay no contributions. On the other hand, a drop in unemployment would increase the workforce and compensate for the growing numbers of non-contributing pensioners in receipt of benefits.

4.3.4. Other elements, however, must be taken into consideration.

4.3.5. On the one hand, the very high levels of indirect charges at the moment could discourage the investments

[1] Council Recommendation of 27 July 1992 on the convergence of social protection objectives and policies, OJ No L 245 (92/442/EEC) and Council Recommendation of 24 June 1992 on the common criteria concerning sufficient resources and social assistance in social protection systems.

[2] Op. cit SEC(96) 487 final of 20. 3. 1996.

needed to create new jobs. It would be useful here to have a study on the relationship between indirect costs and job-creation, between the level of contributions and overall manpower costs and between manpower costs and manpower requirements. This would allow a better overview of the direction to take in promoting employment. Moreover, it would be wise to evaluate the effect on employment of a targeted reduction in social contributions. This was reiterated by the Council and the Commission in a joint report on employment adopted by the Madrid European Council. It would also be wise to assess the impact of other sources of funding.

4.3.6. However, unemployment benefit is also an essential element of our economy, since it allows the unemployed to continue to act as consumers and helps keep them in a fit state of mind to seek work.

4.3.7. To promote adapting social protection to the employment situation, a number of elements could come into play.

4.3.7.1. Reducing the burden of social costs on low wages

4.3.7.1.1. As Jacques Delors pointed out in his White Paper, the worst effects of the international competition for employment currently experienced by Europe are felt by low-skilled labour. In the current labour market situation, it should be possible to take action on behalf of this section of the workforce with the aim of lowering non-wage labour costs by reducing social security contributions. In the long term, the top priority must be to stimulate low-skilled workers to upskill.

4.3.7.1.2. The Member States could introduce a system of partial exemption, under which wages would only be subject to social security contributions for the portion above a certain level. The system would thus cover all wages but only those above the threshold would be subject to these contributions (on a pro-rata basis).

4.3.7.1.3. Under this system, employers would enjoy partial exemption on all wages and salaries regardless of their level. This is contrary to the White Paper, which only recommends exemption for low salaries.

4.3.7.2. Backing developments in working practices

4.3.7.2.1. Developments on the labour market, with more and more women in employment, have changed working practices. Practices have emerged such as flexible working, atypical types of work (temporary employment, part-time working etc.) and access to benefits such as parental leave.

4.3.7.2.2. Individual working patterns are becoming more and more disparate, interdependent with other activities and personal responsibilities and changing throughout a lifetime. Social security and pension schemes should be adapted to fit into these new working patterns, and to give adequate protection. Useful measures are mentioned in the ILO Convention and Recommendation of 1994 on part-time work. The Convention requires that statutory social security schemes based on occupational activity be adapted so that part-time workers can enjoy pro-rata conditions equivalent to those of comparable full-time workers.

Thresholds below which part-time workers may be excluded from social security schemes must be reviewed periodically and progressively reduced. As regards temporary work and different types of (atypical) contracts with fluctuating working hours, discussions are still at a very initial stage. An important element here (besides equal access) seems to be that longer reference periods and/or more individually adapted working hours are necessary to ensure better social security protection.

4.3.7.2.3. These new developments must be taken into account in the organization of social protection. Thus, work models such as part-time work and parental leave should be encouraged, insofar as these, to a certain extent, also help create jobs.

4.3.7.2.4. Taking advantage of these forms of employment should not be discouraged by the unsuitability of social protection. Flexibility must be introduced into social security systems to take account of people's occupational development. At the same time, steps should be taken to ensure that people with inflexible or atypical forms of work do not receive a low level of social protection or even lose it altogether.

4.3.7.3. Promoting the European labour market

4.3.7.3.1. Achievement of a truly European labour market and the free movement of workers are fundamental objectives of the Union and also contribute to the tackling of the unemployment problem.

4.3.7.3.2. In order to ensure this freedom, Article 51 gives the Community the competence to coordinate the social security of migrant workers, with a view to eliminating possible sources of discrimination between national and 'migrant' workers. The coordination mechanism should therefore cover the entire social security status of workers.

4.3.7.3.3. Complementary social protection schemes are increasingly important as an essential element of the social protection of workers. Coordination mechanisms should be adapted to cover complementary social protection rights to ensure their portability across the Union.

4.3.7.4. Promoting developments in on-going training

4.3.7.4.1. In future, periods of training will be spread over an individual's entire working life. To ensure that social protection is employment friendly, social protection schemes must give priority to support for training, including that financed by businesses; social protection should be made compatible with new forms of training, since training promotes jobs; in the same way, social protection should also help the employment situation. Tax and other incentives must be developed so that people, even at their own expense, are willing to improve their skills, risk taking new jobs and are also willing to move.

The possibility of introducing a 'competence account', which is being discussed in a number of Member States, should be explored.

4.3.7.4.2. On-going training would therefore be an easier option if training periods were systematically considered as normal work periods giving the right to full social cover.

4.3.7.4.3. Member States must also introduce measures to ensure that training on offer corresponds to actual workforce demand and that the training undertaken is of real use and is not only aimed at gaining a further qualification with no real prospects. Occupational training should be adapted to economic or business requirements and should even pave the way for social or professional advancement, with social protection helping it to do that.

4.3.7.4.4. At the same time, distortions in the age pyramid are becoming generally apparent. These are due both to the raising of the school-leaving age and longer training periods and a rise in the average age of the population. School must not become merely a social shock absorber for young people. It could also provide a framework in which young people benefited from the experience and skills of older people. Such an arrangement would also undoubtedly benefit older people by helping them to remain active for longer.

4.3.7.5. Transforming passive expenditure on unemployment into active expenditure

4.3.7.5.1. Possible action here could involve promoting the productive deployment of unemployed persons enjoying social security cover for the performance of work for which there is still insufficient funding. The objective must be the creation of real jobs.

4.3.7.5.2. However, other employment sectors should also be promoted which, despite certain reservations, are not designed for the unemployed since they are outside the market sector. These include service providers (domiciliary carers, home-helps etc.) where demand is often not met because of staffing difficulties. Need often lags far behind reality. The Member States should therefore promote the establishment of private companies, associations or even public services to develop activities of this kind and help ensure they are not considered as a mere transition to a 'real job' but as normal employment in their own right. The EU should contribute actively towards this by allowing greater Member State support than before for those sectors in which market social services are produced, if this serves to get the unemployed into work.

4.3.7.5.3. Similarly, social protection systems could contribute to the financing of training through structures involving more direct participation by the social partners and by the establishment of a closer link between unemployment benefit and the qualifications of the unemployed.

4.3.7.5.4. Lastly, consideration must be given to other employment-promotion measures, such as the offsetting of retirement by the employment of young people or measures to return the long-term unemployed to work.

4.3.7.5.5. However, measures of this kind should be accompanied by a firm commitment on employers that they will respect their contractual obligation to take on new staff, as agreed between the social partners.

4.3.7.5.6. Still with the aim of transforming a passive response to unemployment into an active policy on employment, the Committee believes it necessary to restructure social security systems and to take a much more differentiated and flexible approach to working time, with a view to giving young couples starting a family greater access to the labour market. This could be matched by enhancing parental leave and improving childminding and child care facilities.

4.3.7.5.7. By proceeding in this way, the Member States would help transform passive expenses into active expenses. Unemployment insurance should not be merely a social benefit but must be a component of an active employment policy.

## 5. B — How is social protection to be financed?

5.1. Employment and the financing of social protection are closely linked issues, since, as Jacques Delors

notes in his white paper, if social protection costs bear too heavily on employment, investment decisions which could lead to job creation tend to be deferred.

5.2. Thus, action to promote employment frequently has an impact on the financing of social protection and vice versa.

5.3. The introduction of employment-friendly policies and the guarantee of a financial balance in social protection presupposes the adoption of new arrangements for the financing of social protection which do not adversely affect labour costs or, as a result, employment.

5.4. There are several possible approaches.

5.4.1. It should not be forgotten that the future of social protection is also linked to the current debate and to the measures already taken in the majority of Member States concerning efforts to balance the social spending budget. Social welfare schemes covering the whole population should be financed more by taxes and less by contributions, so that all taxable incomes are tapped.

5.4.1.1. This is the opinion developed in the policy paper drawn up for the informal meeting of ECOFIN ministers on taxation in the European Union on 20 March 1996. The cost of social protection may, to follow this thesis, be reduced by augmenting tax-based or quasi-tax-based resources. Calls for more action on tax must however be accompanied by enhanced coordination among the Member States on tax-related matters. In any extension of the tax-financed social security system, mechanisms should be set up to ensure that benefit provision is not geared solely to financial ministers' short-term headroom.

5.4.1.2. Moreover, moves along these lines should be matched by a revised definition on the part of the Member States of what comes under the heading of national solidarity, occupational solidarity or personal effort. These three concepts form the three pillars of social protection. Thus, for example, national solidarity may be considered as seeking to guarantee universal protection irrespective of whether a person pursues an occupation. It may be financed from tax. Occupational solidarity, on the other hand, depends on the pursuit of an occupation and is designed to cover periods of unemployment. It may be financed by wage deductions or employer contributions.

5.4.1.3. In this way, the system of solidarity is preserved, while Member States can move towards a system granting universal participation in the financing of social protection, with each individual and company contributing on a pro rata basis.

5.4.1.4. The financial base would be expanded to all income, not only from work, but also from capital, company added value, energy etc.

5.4.1.5. As for added value, this is on the increase as, for example, the mechanization of work lowers staffing levels. This means some companies are paying little in the way of salary-deductible contributions to social protection, despite sometimes creating considerable wealth.

5.4.1.6. In the same way, social protection charges, in Member States where this is possible, would be spread more widely across the population to include pensioners, the unemployed etc., whose contributions would be adapted to their means.

5.4.1.7. Whatever happens, whether overall funding is tax- or contribution-based, it must be integrated into an operational system which does not undermine the way the Member States have elected to run their schemes, and particularly not solidarity-based joint and mutual social protection schemes.

5.4.2. What financial benefits should accrue from solidarity?

5.4.2.1. Moves have already been made at Community level. For example, the proposal for a Council Recommendation on the convergence of social protection objectives and policies states that protection should guarantee sufficient resources to maintain 'an adequate standard of living'.

5.4.2.2. For this reason, the tax take should be channeled in particular to benefits for which the whole population is potentially eligible, with priority being given to those groups in the population which are particularly threatened by social exclusion.

5.4.3. How can financing through occupational solidarity be arranged?

5.4.3.1. Of the potential financing arrangements, capitalization does not appear to be appropriate to social protection where this is universal or designed to provide minimum cover. Whilst any additional financial charge to fund social protection reduces the net wages

of the active population and can cause increasingly serious political tension, capitalization systems are extremely sensitive to demographic and economic changes.

5.4.3.2. At present, demographic trends are responsible for imbalances which, because of their problematic consequences, are particularly dangerous for the pursuit of social protection objectives.

5.4.4. Promoting family policy

5.4.4.1. It seems advisable to note the growing importance of family allowances. Action in this area should be seen as a long-term investment. Indeed, family assistance could bring the structure of the social protection system back into balance. To this extent, it could even be regarded as an asset of the system.

5.4.4.2. In the same way, to reestablish balance in the European age pyramid, it would be advisable to take account of what has now become permanent migration in Europe, so long, of course, as the immigration is legal.

**6. C — What adjustments should be made in the face of an ageing population?**

6.1. For some years now the European population has been ageing as a result of two phenomena, namely a lower birth rate and a higher proportion of old people in the population owing to greater longevity.

6.2. Thus, whilst the under-twenties accounted for 31,8 % of Europe's population in 1960, 30,1 % in 1980 and 24,2 % in 1995, the corresponding figures for the over-sixties were 15,4 %, 17,9 % and 20,4 %.

6.3. This ageing process will be further accelerated by the recent fall in the birth rate in Italy, Greece, Portugal and Ireland, all countries where it has traditionally been high.

6.4. Consequently, the proportion of economically active persons in the total population is declining and, in the relatively long term, this will create new problems for the funding of pensions and threaten the balance of social protection budgets; it also suggests a need for action to counter the risks of dependence among old people.

6.4.1. The problem of pensions in the context of an ageing population

6.4.1.1. The Member States are already reforming their pension schemes in response to this situation.

6.4.1.2. The Member States should define a joint basic policy so that those who make pension contributions today can be sure of enjoying the benefit of them tomorrow.

6.4.1.3. Retirement age is not uniform throughout Europe. Except in France and Italy (60) and Denmark (67), people retire at 65. Women stop work earlier in some countries (Italy, Portugal, Austria, UK, Greece and Belgium).

6.4.1.4. In exchanges of experience, Member States could define an optimum retirement age which ensures maximum reconciliation of all the elements involved and which can be adjusted in line with the determining factors. Member States' legislation could be aligned more closely on this basis.

6.4.1.5. Furthermore, in order to offset the loss of economically active persons from the working population, there is a temptation to delay retirement age. Such an arrangement makes it possible to extend the period over which contributions are paid whilst reducing the duration of pension payments. It also enables undertakings to take advantage of the valuable experience of older people for longer.

6.4.1.6. This approach is, however, rarely adopted since it increases numbers on the labour market and thus reduces vacancies for young people, among whom unemployment levels are becoming increasingly alarming.

6.4.1.7. Gradual retirement might provide an intermediate or alternative solution. Individuals would progressively reduce their working hours (increasingly part-time activity) whilst simultaneously extending their working life (a gradual shift in retirement age). However, this arrangement should be adapted to suit the sector concerned. In fact, in a number of sectors plagued by serious structural problems, applying this arrangement might be expected to put greater strain on unemployment benefits.

6.4.1.8. This arrangement, which is not unlike the system whereby older workers undertake to 'initiate' younger staff, would also have the considerable social advantage of helping older people to leave active life over a period whilst allowing young people gradually to enter working life via such arrangements as apprenticeships and work/training schemes. The arrangement should, however, be set within a strong framework, and be in keeping with collective agreements, involving commitments from the different parties involved.

6.4.1.9. In this context, it is important to stress that, in many sectors, the real retirement age is much lower than that set officially. This is largely due to people in particularly difficult lines of work taking retirement early. It is essential to reform and improve unfavourable working conditions in order to reduce the costs of insurance systems and enhance the quality of life of the people concerned. A useful approach here would be to work out targeted information exchange arrangements within the EU.

6.4.2. The risk of dependence, given an ageing population

6.4.2.1. Throughout the European Union, the risk of dependence resulting from an ageing population is compounded by a second factor. The family unit has shrunk over the last few decades, so that there is no longer a place for old people among their children.

6.4.2.2. They are, it appears, society's responsibility and society should step in and help to create solidarity between the generations. For example, there could be a levy on all employed persons to finance support structures, assistance plans and the like for old people as a means of reducing dependence. A contribution of this kind should in any case be universal since the issue concerns us all.

## 7. D — How should social protection be adapted to the single market?

7.1. One of the basic objectives underpinning the construction of Europe is the free movement of persons and goods and the freedom to provide services within the single market.

7.2. Exercise of these rights is at present part of everyday economic and personal life within the Community.

7.2.1. Social protection and the free movement of people

7.2.1.1. Two observations can be made with regard to the free movement of individuals:

— there is increasing intra-European migration. A growing number of Europe's citizens are making use of this option for a wide variety of reasons: study, training, the search for work, retirement, etc.;

— at the same time, the content and cost of social services varies greatly from one Member State to the next.

7.2.1.2. Under these circumstances, individuals exercising their right of free movement have different social security cover depending on their destination. This is an obstacle to their true freedom of movement and might lead them to choose their destination in the light of the quality and cost of the social security benefits available. This could give rise to developments such as benefit tourism. Benefit tourism is most often justified by the fact that medical services differ in effectiveness from one Member State to another.

7.2.1.3. Since this is a European problem, it seems logical to seek a European solution.

7.2.1.4. Moreover, since the majority of Member States have started to reform their social protection systems, coordination becomes imperative so that the reforms in question are applicable in a European context.

7.2.1.5. These reforms should focus on the same objectives, since the Member States are facing similar problems. The aim must therefore be to ensure a degree of convergence of:

— the type and level of benefits provided: any EU citizen should be entitled to minimum benefits as determined by each Member State.

  Convergence of minimum income provisions which exist for all EU residents could be drawn up according to the relevant criteria of the ILO Conventions on social security; conditions of access to benefits for partners/families should reflect modern working and living patterns so as not to cause disincentives to participation in the labour market;

— the conditions of eligibility for these benefits: the Member States should consult together to determine whether these conditions should be linked to place of residence, occupation, the individual's resources.

7.2.2. Social protection in Europe and freedom to provide services

7.2.2.1. Freedom to provide services, a facility promoted and recognized in the Union process, is not without impact on the future of social protection. The main problem is how to allocate roles between the various agencies which operate social protection schemes once they are free to engage in intra-Community competition.

7.2.2.2. However, one must remember that the idea of competition within the sphere of social protection is different from that in other areas. The rules are not the same as for other more purely commercial areas.

7.2.2.3. A whole range of agencies provide sickness, old-age, unemployment, invalidity, etc. benefits. These agencies may be public or private, obligatory or voluntary.

7.2.2.4. One option open to Member States would, it seems, be to determine the spheres of responsibility of these bodies.

7.2.2.5. The responsibilities of these agencies should be looked at on two levels: firstly as to the geographical range of the agencies and secondly as to the fields in which they operate and the benefits they provide.

7.2.3. Social protection in Europe and the free movement of goods

7.2.3.1. This third principle has an impact on European competitiveness and thus on labour costs.

7.2.3.2. Labour today accounts for a growing share of the costs of many goods. Of course, this figure varies, depending on the social policy adopted by a particular country. This brings us back to the issue of financing mentioned above.

7.2.3.3. Whatever happens, it is essential that Europe preserve its international competitiveness; as a result, it must retain competitive labour costs. The Member States should therefore seek financing methods which are as neutral as possible with respect to labour costs, and which allow a high level of social protection to be maintained.

7.2.3.4. A large number of reforms have already been undertaken in this direction. An attempt should be made to coordinate these reforms. Here, it would be possible to adopt a common approach to benefits, and how they are financed, by distinguishing between schemes based on national solidarity, occupational solidarity and individual effort. This common approach should take account of alternative sources of finance.

## 8. E — Health services in Europe

8.1. Even though their national health schemes are fairly and in some cases very different, all the Member States are currently worried about the increase in health costs. Moreover, the lessons learned from each country's reforms could certainly benefit all the others. Similarly, measures taken by one country will be more or less effective depending on whether they have been agreed upon with the other Member States or not.

8.2. Could not health services be the first area for application of the agreed convergence principles?

8.3. It would therefore be helpful to organize a system for the exchange of information and opinions on this topic between the parties concerned in the Member States.

8.4. As regards increased health expenditure, for example, a large number of reforms have already been initiated. The parties concerned may adopt different arrangements for controlling health expenditure: overall budgets, medical-service or accountancy management, agreements with health professionals, etc. Their European partners could provide valuable guidance on the procedures to be adopted and the results to be expected. This is true of a number of areas, such as the management of health care establishments, pharmacy and preventive medicine.

8.5. By adopting the 1992 Recommendation on the convergence of social protection objectives and policies, the EU Member States have endorsed the objective of ensuring that all persons legally resident in a Member State have access to necessary health care, as well as the maintenance and development of a high-quality health-care system. The concern over containing health care costs must be tempered by concern to ensure equitable access to high-quality health care for all. Measures to allow selection of risks (cream-skimming) would endanger solidarity and jeopardize the provision of effective care.

8.6. As regards the management of health-care systems which, as has been pointed out, varies considerably throughout Europe, standardization is obviously out of the question, at least in the foreseeable future. On the other hand, efforts could be made to give these different systems common features, in particular with a view to ensuring that all Europe's citizens enjoy equivalent services, particularly in health insurance schemes which wholly or partly replace a state scheme and operate in the internal market.

## 9. F — Action by the Member States to counter exclusion at the European level

9.1. For some twenty years now there has been a disquieting revival of social exclusion, particularly of young people, in the affluent countries, and thus in Europe. Whilst the precise origin of this impoverishment cannot be identified, the principal causes are known. These are, on the one hand, higher unemployment, particularly long-term unemployment and, on the other, a weakening of social and family ties following the break up of the family unit and an increasingly individualistic personal ethos.

9.2. At the same time, many of Europe's social protection systems are designed in such a way that, in most cases, the loss of employment entails a corresponding loss of social security. The numbers of socially excluded increase with rising unemployment.

9.3. Given this state of affairs, which is causing growing concern in all the Member States, the problem of exclusion should be seen as linked to the issue of social protection. Indeed, some Member States include anti-exclusion measures, such as minimum social provisions, among their social services. Action must be taken at European level against social exclusion through social protection. The Member States should pay much more attention to international social standards. The same applies to the EU.

9.4. Adoption of a common approach by everyone responsible for social welfare in the countries of Europe would be more effective and would have a wider impact [1].

9.5. Several lines of action can already be mentioned.

9.5.1. In order to reduce the number of individuals who do not enjoy guaranteed social security and in the interests of universal social protection, it might be possible to provide for a minimum income in all the Member States accompanied by minimum health care, free treatment (not advance payments), social welfare facilities at hospitals, etc. For that matter, the then twelve Member States reached unanimous agreement on minimum income in a recommendation adopted on 24 June 1992.

9.5.2. Integration in the workforce is also a central element in the battle against exclusion and long-term unemployment. An EU programme could be initiated to provide the excluded with work experience in enterprises.

9.5.3. A European poverty and exclusion observatory could be created. This would be backed up by observatories in all Member States and would have the task of precisely identifying the causes of poverty and exclusion in order to maximize the efficiency of the measures taken.

9.5.4. As with unemployment, anti-exclusion measures must seek to ensure that exclusion never becomes a preferable option. Action taken must not create a permanent state of assistance but must prompt genuine efforts to enter the labour market.

9.5.5. Charitable associations bring together voluntary workers in every Member State and throughout the European Union; their cooperation should be endorsed and promoted in the battle against social exclusion.

[1] It is worth noting that the Committee is drawing up an Own-initiative Opinion on the costs of poverty and social exclusion in Europe.

Brussels, 28 November 1996.

*The President*

*of the Economic and Social Committee*

Tom JENKINS

*APPENDIX*

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

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

**Points 3.8 to 3.11 inclusive**

Delete.

*Reason*

These paragraphs tend to show — albeit in a particularly abstract way — that subsidiarity is perhaps not the best solution in the field of social protection. In so doing, they contradict not only the preceding paragraphs but also the whole spirit of the draft opinion.

It would lighten both the form and content of the text considerably to delete these paragraphs and move straight to point 3.12, which sets out the ESC's position clearly and unambiguously.

*Result of the vote*

For: 55, against: 71, abstentions: 3.

**Point 4.3.7.1.1, second sentence**

Amend the end of the sentence to read as follows: 'with the aim of lowering labour costs via public subsidies for wages and non-wage labour costs'.

*Reason*

The German text of the opinion speaks of lowering wage costs, rather than non-wage labour costs. Reducing wage costs is not, however, a suitable way of reintegrating low-skilled workers into the labour market, and would constitute interference in free collective bargaining. What is needed, rather, is active policy for this group to promote employment and skills.

*Result of the vote*

For: 35, against: 78, abstentions: 11.

**Point 4.3.7.1.2**

Delete.

*Reason*

Social protection systems differ too much from one Member State to another. The different effects should first be looked at more closely.

*Result of the vote*

For: 57, against: 66, abstentions: 7.

**Point 5.4.1.4**

Delete.

*Reason*

This is a matter for national debate.

*Result of the vote*

For: 51, against: 66, abstentions: 4.

**Opinion of the Economic and Social Committee on:**

**— the 'Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the Information Society: from Corfu to Dublin — The new emerging priorities', and**

**— the 'Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the Implications of the Information Society for European Union policies — Preparing the next steps'**

(97/C 66/18)

On 2 August 1996 the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the above-mentioned communications.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 November 1996. The Rapporteur was Mr Ramaekers.

At its 340th Plenary Session of 27 and 28 November 1996 (meeting of 27 November), the Economic and Social Committee adopted the following opinion by 79 votes to 30, with 15 abstentions.

## 1. Introduction

1.1. The Committee welcomes the Commission's intention to update its Action Plan for the Information Society, set out in a Commission Communication: From Corfu to Dublin — The new emerging priorities.

1.2. The Committee is well aware of the substantial work programme which the action plan entails.

1.3. The Committee welcomes the Commission's determination to address the social issues connected with the transition to the Information Society and would reiterate its view, stated in its Opinion on the Commission action plan entitled 'Europe's Way towards the Information Society' [1], that the social, societal and cultural aspects have not been taken sufficiently into account.

1.4. The Committee has delivered numerous opinions on various aspects relating to full liberalization of the telecommunications market since the Commission presented its action plan; the Committee sees the present Opinion as consonant with its earlier Opinions on the subject, including the following:

— Europe's way to the information society: Action plan — Section for Industry, Commerce, Crafts and Services — rapporteur: Mr Ramaekers;

— Green Paper on the liberalization of telecommunications infrastructure — Section for Transport and Communications — rapporteur: Mr von Schwerin [2];

— Info 2000 — Section for Industry, Commerce, Crafts and Services — rapporteur: Mr Pellarini [3];

— ONP — Section for Transport and Communications — rapporteur: Mr Green [4];

— ONP — Section for Transport and Communications — rapporteur: Mr Hernandez Bataller [5];

— The universal service — Section for Transport and Communications — rapporteur: Mr von Schwerin [6];

— Green Paper on pluralism and media concentration — Section for Industry, Commerce, Crafts and Services — rapporteur: Mr Decaillon [7].

## 2. The Commission communication

2.1. The Commission considers that most of the measures set out in the action plan have been implemented over the last two years, though some, for example, on information security, have taken more time than expected.

2.2. The Commission now has a more comprehensive picture of the measures necessary and therefore considers it time to review the action plan. Four main policy lines have been identified as priorities:

— improving the business environment;

— investing in the future;

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(1) OJ No C 110, 2. 5. 1995, p. 37.
(2) OJ No C 301, 13. 11. 1995.
(3) OJ No C 82, 19. 3. 1996.
(4) OJ No C 236, 11. 9. 1995.
(5) OJ No C 153, 28. 5. 1996.
(6) CES 1075/96.
(7) OJ No C 110, 2. 5. 1995, p. 53.

— people first;

— meeting the global challenge.

2.3. The Commission points out that, subject to certain exemptions, full telecommunications liberalization has to be effectively implemented throughout the Union by 1 January 1998; this will require increased consistency of national legislation governing information society services. Particular attention needs to be given, also, to SMEs.

2.4. Know-how will play a key role in the information society. The 5th R& D programme will attach special importance to Europe's knowledge base. The Commission undertakes rapidly to draw up an action plan on the initiative 'Learning in the information society', which is intended to be a practical follow-up to the White Paper 'Teaching and learning — towards a learning society'.

2.5. The Commission intends to secure closer integration of Structural Funds so as to be able to better address social issues, protect consumer interests and improve the quality of public sector services.

2.6. The Commission recognizes the need to step up cooperation with the EU's neighbours and help integrate the developing world into the information society on a global level.

2.7. The Commission will begin responding to the new priorities through:

— its Communication on 'The implications of information society on European Union policies — preparing the next steps' — COM(96) 395 final;

— a Green Paper on 'Living and working in the information society: people first' — COM(96) 389 final;

— a Communication on 'Standardization and the global information society: the European approach' — COM(96) 359 final;

— a draft Directive on 'Regulatory transparency in the internal market for information society services' — COM(96) 392 final.

## 3. General comments

3.1. The Committee welcomes the Commission's moves to review its action plan. It notes that many of the issues raised in its Opinion on the Commission Communication on 'Europe's way to the information society' — action plan have been addressed in this communication.

3.2. However, the Committee is surprised that the Commission has stuck to a strict implementation of its schedule, whereas it considers a clear-cut, stable legislative framework to be essential for the development of the information society. Although the Commission considers preparatory work on this legislative framework to be well advanced, the Committee, whilst recognizing the genuine progress made on many aspects, believes that certain areas still require clearer definition, notably questions relating to the convergence of the audiovisual and telecommunications sectors and in particular certain new services, only some of which are covered by the draft directive referred to above (COM(96) 392 final).

3.3. The Committee would draw attention to its Opinion on the Commission's action plan entitled 'Europe's way to the information society' and in particular its conclusions on the issues it considers of priority importance.

The Committee would draw particular attention to point 4.1 of the opinion which states that: 'Given the convergence of the telecommunications, audiovisual and publishing sectors, the question of media concentration should be regulated before there is any further move in the direction of liberalization', and to point 4.2 which states that: 'Adoption of the Commission's proposal for a programme to liberalize services and infrastructure must depend on certain preconditions first being fulfilled in such fields as:

— the establishment of a stable and legal regulatory framework, ...;

— the harmonization and development of EURO-ISDN [1], an integrated broadband network, and IDA [2], so as not to compromise the development of public-interest and other applications.'

The Committee would reaffirm the relevance of the concerns expressed above.

3.4. On a general note, the Committee considers that all the conclusions of its Opinion on the Commission action plan 'Europe's Way Towards the Information Society' are still valid; the Committee also notes that some of these conclusions are also examined in the Commission communication, in particular those on social and societal aspects.

3.5. The Committee notes that the intermediate report of the high-level group of experts draws attention to the need to go beyond conventional ideas on the universal service.

The group of experts also takes the view that the Commission has not paid sufficient attention to social policy.

3.6. The Committee is aware of the scale of the challenge in those areas affected by the advent of the information society. It recognizes, along with the Commission, the importance of social and societal

(1) ISDN = Integrated service digital network.
(2) IDA = Trans-European data communication networks between administrations.

questions and other such priority issues as employment, training, education and access to services. It awaits the results of specific studies initiated by the Commission, notably on employment, and would emphasize, in particular, the need for continuing training and retraining programmes geared to market and technological developments.

3.7. The Committee is concerned that the measures undertaken by the Commission, notwithstanding their momentum, will be unable to satisfy the various market needs of the parties involved, within the timetable prescribed for telecommunications liberalization.

3.8. The Committee feels that, apart from the rules currently adopted concerning, for example, mobile and satellite communications, and infrastructure, it may not be possible to clarify important questions within the time limits specified. By way of example, it emphasizes the crucial importance of the concept of universal service and notes the special attention devoted to this by the Commission. However, in spite of joint efforts and considerable work undertaken by the Commission, the Committee would draw attention to the following comment in its Opinion on the Universal service for telecommunications in the perspective of a fully liberalized environment: (point 4.6) ...'Priority must be given to the Commission presenting guidelines for the financing of the universal service without delay, so that the costs associated with the provision of the universal service can be divided up by all market players.' The Committee would point out that, notwithstanding the considerable work already carried out on the universal service, urgent answers are still awaited on very precise questions such as its financing.

3.9. The Committee is concerned therefore at the time limits set for the full liberalization of telecommunications at a time when full information has yet to be received on questions such as the universal service, with only a little over a year remaining before the deadline for liberalization.

3.10. Although the Committee believes that the Commission can provide answers to these specific questions, it is less confident of receiving satisfaction on key social questions such as employment and education.

3.11. In this context, the Committee welcomes the consultation process organized by the Commission via the Green Paper on 'Living and working in the information society: people first' (COM(96) 389 final). The Committee will examine this green paper in a separate opinion. It would stress, however, that the issues raised therein are fundamental for the cohesion of society. In view of the time required to draft effective measures and rules, in particular on security, convergence and privacy and universal service, in spite of and notwithstanding the considerable efforts put into this task, the Committee is not confident that the consultation procedure on social issues can be concluded in time to produce the necessary responses by 1 January 1998.

3.12. The Committee considers that in order to abide by the liberalization schedule, the EU must give central priority to the matters raised in the aforementioned green paper, in the Committee's opinions on the same subject, by the high-level group of experts and in the information society forum; otherwise polarization of society will become increasingly difficult to avoid.

## 4. Specific comments

### 4.1. *Improving the business environment*

4.1.1. The Committee affirms the need to establish a clear, stable legislative framework and to ensure its effective implementation in order to free capital — private, public, private-public or cooperative — for the creation of high-performance telecommunications infrastructure.

4.1.2. Liberalization of certain sectors of the telecommunications market has already been achieved (mobile and satellite communications, and alternative infrastructure), but future developments require that the national regulatory authorities (NRA) are properly coordinated and have sufficient resources and the requisite independence to fulfil their role. The Committee therefore welcomes the need felt by the Commission to establish a regulatory authority for telecommunications at European Union level which would limit the powers of the national regulatory authorities.

4.1.3. The Committee notes that the Commission does not consider itself at present to predict which services will find a market and that it is analyzing potential barriers to the development of new services, particularly electronic commerce.

4.1.4. In order to ensure the integrity of the internal market, the Commission (see point 2.7) is proposing a directive on regulatory transparency for information society services. The Committee is dealing with this proposal in another opinion.

4.1.5. The Committee notes that the Commission is currently analyzing the lack of consistency with respect to the existing legal frameworks in the light of the challenge posed by the emerging technological convergence. The Committee is surprised that the Commission speaks of 'a new challenge' with reference to the convergence between telecommunications and the audiovisual sector; this was from the outset one of the key questions which the Committee raised in its Opinion on the Commission action plan 'Europe's Way Towards the Information Society'.

4.1.6. The Committee notes that the Commission is drafting proposals with a view to ensuring privacy, confidentiality and electronic authentication.

The Committee would encourage the Commission to lose no time in proposing the means to achieve this target, otherwise the transition due on 1 January 1998 could, the Committee fears, take place in an atmosphere of doubt caused by the general legislative uncertainty.

4.1.7. The Committee notes that the Commission considers that SMEs are vital to the development of the new multimedia content market. In this context, it would reiterate its reservations about various shortcomings expressed in point 4.3.4 of its Opinion on the INFO 2000 plan: 'If the Commission wishes, first of all, to foster SMEs, it will also have to provide them with data. It is inconceivable that SMEs which do not possess the means to carry out research of this kind, should launch costly initiatives without knowing if they are market-viable.'.

The Committee notes the importance attached by the Commission to the INFO 2000 plan in the context of the development of the multimedia content industry and the Committee would reiterate the conclusions of its Opinion on the INFO 2000 plan of December 1995 in which it commented on the weakness of the overall financing arrangements, albeit endorsing fully the objectives set out in the INFO 2000 programme. Point 5.3 of the opinion states that: 'The Committee finds some weaknesses in the programme proposal; its overall direction is sometimes vague and its scope is not fully defined'. The Committee is also surprised that the INFO 2000 plan is discussed in connection with the audiovisual sector in the Commission's communication, whereas it principally concerns the publishing sector.

4.1.8. The Committee notes the importance attached by the Commission to standardization, a more detailed opinion on this question is currently in preparation.

4.2. *Investing in the future*

4.2.1. The Committee notes and welcomes the importance which the Commission communication attaches (a) to life-long learning in the context of improving education and training and (b) to sustainable development.

4.2.2. The Committee notes the Commission's desire to respond more effectively to the increasing demands of industry and society, focusing R&D efforts on themes of general interest in line with specific user needs. The Committee finds, to its satisfaction, that this mirrors a number of its priority concerns.

4.2.3. The Committee welcomes the Commission's initiative in issuing the White Paper on 'Teaching and learning — towards the learning society'; the Committee is devoting a separate opinion to the Green Paper 'Living and working in the information society: people first'. The Committee notes the Commission's general observation that there is a need to counter skills obsolescence in the adult workforce, but would point out that it has drawn ample attention to the importance of training programmes in previous Opinions.

4.2.4. The Committee notes the conclusions of the information society forum concerning the need to develop education and training and the forum's observations on the consequent financial implications, emphasized by the Commission in point 2.2.b, second paragraph, of its communication.

The Committee welcomes the action plan on 'Learning on the information society', put forward by the Commission, and notes that the Commission supports the need to set up private and public partnerships, with a major contribution from the private sector.

The Committee is aware of the importance of introducing new information and communication technologies in all types of schools and hopes that decisive Community action will be taken to ensure that young people are suitably prepared to meet the new challenges of the future.

4.2.5. The Committee notes the Commission's comment on the positive impact which information and communication technologies (ICT) can have on resource utilization, on traffic management, and indirectly, through professional applications, on sustainable development. However, the Committee notes the risk of a 'rebound' effect, highlighted by the IS forum, as pointed out in point 2.2.c, third paragraph, of the Commission communication.

4.3. *People at the centre*

4.3.1. The Committee welcomes the Commission's wish to see new technology benefit all citizens throughout the Union, taking account of the need for consumer protection.

The Committee is pleased that the Commission intends to encourage the use of services to combat social exclusion, which has already affected or is now affecting certain identified social categories, in particular: people who for various reasons no longer work (e.g. the unemployed or people who have taken early retirement), people on low incomes, the handicapped, the elderly, to mention but some.

4.3.2. Access to information services is becoming an increasingly important aspect of the information society.

The Committee notes the need to develop infrastructure in order to ensure such access.

4.3.3. On the subject of access, the Committee notes the obligation to provide a universal service, which already includes access to on-line services. The Committee is concerned, however, that the necessary investment will be introduced at different speeds in the Community.

4.3.4. The Committee notes the Commission's concern to involve consumer representatives in the standardization and consultation process, in particular with a view to developing more user-friendly technology and encouraging consumer education and training.

4.3.5. The Committee sees the need for more efficient public service networks in order to ensure seamless communication between all levels of public administration throughout the Union. It urges the Commission to devote special attention to this question.

4.3.6. Maintaining cultural diversity and pluralism of the media is of central importance to the Union. In this context, the audiovisual industry and the question of copyright are particularly important. The necessary measures must therefore be taken to preserve these valuable assets.

4.4. *Meeting the global challenge*

4.4.1. The Committee is aware of the need to closely involve the countries of central and eastern Europe and to help the European Union's Mediterranean neighbours to meet the challenge of the information society. The Committee considers that a satisfactory balance will require, as a matter of priority, the establishment of a basic set of international rules. It will accordingly be monitoring closely the WTO negotiations on the liberalization of basic telecommunications.

4.4.2. The Committee would stress that the need to associate other countries more closely in information society activities is not confined to the European Union's neighbours, but applies also to other countries which have been unable to keep up with information society developments, the prime objective being to enable the most disadvantaged countries to participate in the information society, in order to prevent a widening of the gap between rich and poor.

## 5. Conclusions

5.1. The Committee would reiterate its concern over employment developments in the information society. It will address this fundamental question in greater detail in its Opinion on the Green Paper on 'Living and working in the information society: people first'. The Committee feels, however, that the studies carried out to date do not offer reassurance with regard to future employment or the development of industrial relations; at present there is no reason to presume that jobs will be fairly distributed in the future.

5.2. If the Union wishes to achieve an equitable distribution of its assets, of access to information, know-how, services and culture, it will have to respond to the enormous challenges currently identified by the Commission.

The Committee believes that these are urgent challenges which cannot be satisfied through a mere consultation exercise. We are dealing with a dynamic process which requires ongoing evaluation. The Committee fears that if the EU introduces a liberalized market at different speeds, this may create numerous disequilibria, particularly at social level.

5.3. In the Committee's view, it is essential that the information society be geared to the needs of individuals rather than vice versa. Particular account must be taken of social groups which currently have no opportunity of contact with ICTs and are in danger of finding themselves in future at an even greater remove; people who for various reasons no longer work, people who have taken early retirement, people on career breaks in order to bring up children, the unemployed, the elderly and people on low incomes, without forgetting those who should currently be in training. In short, although these are people in different situations which cannot be compared, they comprise some very sizeable groups which must at all costs be catered for in the interests of preventing social fragmentation and education. Training programmes must likewise be provided for certain groups of workers, such as the self-employed and 'teleworkers'; the financing of training programmes for SME employees also needs to be addressed.

5.4. The Committee welcomes the Commission's proposal to update its action plan before the end of 1996, but considers that, in order to abide by the

liberalization schedule, the EU must give central priority to the matters raised (i) by the Green Paper on 'Living and working in the information society: people first', (ii) by the Committee's opinions on the same subject, (iii) by the high-level group of experts and (iv) by the information society forum; otherwise, polarization of society will become increasingly difficult to avoid.

The Committee would encourage the Commission to undertake the necessary studies and measures to enable all citizens to become fully integrated within a people-centred information society rather that the reverse.

5.5. The Committee believes that urgent action must be taken to respond to concerns regarding the necessary legislative framework for full telecommunications liberalization; the Committee would emphasize in particular the problems arising from convergence of the telecommunications and audio-visual sectors and the need to ensure information transmission security and the protection of privacy. It would also stress the prime importance of the coverage of the universal service's coverage, its financing and its extension to ensure access to information society networks.

Given the convergence of the telecommunications, audiovisual and publishing sectors, the question of media concentration should be regulated before there is any further move in the direction of liberalization.

Without prior clarification of these questions, the Committee considers that a transition to full telecommunications liberalization would merely jeopardize the successful integration of all citizens into the information society.

5.6. The Committee would therefore encourage the Commission to accord priority to social and societal concerns and to assess practical measures to be taken to avoid exacerbating social differences between the citizens of the European Union.

The Committee wishes to see the legislative framework determined before full liberalization of the telecommunications market and applauds the Commission's intention to prepare an appropriate, updated action plan before the end of the year.

Brussels, 27 November 1996.

*The President*

*of the Economic and Social Committee*

Tom JENKINS

**Opinion of the Economic and Social Committee on:**

**— the 'Proposal for a Council Regulation (EC) amending Regulation (EEC) No 3528/86 on the protection of the Community's forests against atmospheric pollution', and**

**— the 'Proposal for a Council Regulation (EC) amending Regulation (EEC) No 2158/92 on the protection of the Community's forests against fire'** [1]

(97/C 66/19)

On 11 September 1996 the Council, acting in pursuance of Articles 43 and 198 of the Treaty establishing the European Community asked the Economic and Social Committee for an opinion on the above-mentioned proposals.

The Committee appointed Mr Kallio as rapporteur-general for preparing its work on this matter.

At its 340th Plenary Session held on 27 and 28 November 1996 (meeting of 27 November 1996) the Committee unanimously adopted the following opinion.

The Committee endorses the two proposals for Council Regulations under review, subject to the observations set out below.

## 1. Observations

1.1. The Committee points out that it is essential to prolong the validity of the two regulations in order to achieve the underlying objectives. There is a need to take account of the long-term nature of forest lifecycles in order, above all to attain the objectives of the regulation on protection of forests against atmospheric pollution.

1.2. The Committee also bases its observations on its 1992 opinion on the first extension of the two regulations. The Committee has also been able to keep abreast of developments in European forestry, via annual reports on the forest condition in Europe and via papers on research into forest fires.

1.3. The Committee notes that:

— the EU measures to protect forests against atmospheric pollution accord with the objectives of EU agricultural policy and the goals set out in the 1993 Fifth Community Programme of Policy and Action in relation to the Environment and Sustainable Development. The proposed measures also help the EU to honour its international obligations (Rio conference of 1992);

— support for Member States' fire protection measures is concentrated on at-risk regions and EU cooperation on improving fire protection systems is in future to be promoted by extending the information system. This information system is also of considerable importance with regard to monitoring work and research.

## 2. General comments

2.1. Forests are of fundamental importance for the long-term maintenance of ecological balance, particularly with regard to soil and soil fertility, water management, climate and animal and plant life. The forests' role in providing protection also constitutes an important precondition for the long-term fertility of agricultural land.

2.2. The economic importance of forests derives from the fact (a) that they produce renewable raw materials and (b) that they create jobs in both forestry and the wood industry. Furthermore, other economic sectors, such as tourism and leisure tap the attractions offered by forests. Forest management creates the necessary infrastructure.

2.3. Forests constitute, by virtue of their major ecological, economic and social functions, an important factor in the development of the EU.

2.4. The Committee therefore regards European forests as a strategic resource, the maintenance of which requires an integrated structural policy. This policy also ties in with the EU's contribution to the protection of ecosystems and the achievement of sustainable development on a world-wide level.

2.5. EU policies must take appropriate account of the importance of Europe's forests to people, the environment, the economy and the countryside. Further-

[1] OJ No C 268, 14. 9. 1996, p. 7-8.

more, forestry must be provided with incentives in order to secure lasting protection for forests and to ensure that they are developed in keeping with their surroundings.

2.6. The Committee is pleased to note that the European Parliament too, has, since 1992, been devoting more time to the issues of forest conservation and development and forestry resources (EUROFOR Study 1994, EP Initiative 1996).

2.7. The Committee is pleased to note the coordinating role played by the Standing Forestry Committee at both EU level and world-wide level.

2.8. The Committee also welcomes the Commission's proposal that an advisory committee on forestry be set up.

## 3. Specific comments on the proposed EU measures to protect forests against atmospheric pollution

3.1. The Committee welcomes the reports on the forest condition in Europe published since 1992 by the UN Economic Commission for Europe (UN/ECE) and the EC Commission. These reports do, however, indicate that, in spite of regional improvements, damage to forestry at overall European level is increasing.

3.2. The Committee also notes with satisfaction that an increasing number of Member States are taking part in national and cross-frontier inventories of forest conditions (Level I) and that in addition to the crown condition surveys carried out between 1991 and 1995, further surveys have been organized of forest soil conditions and analyses of the chemical content of needles and leaves.

3.3. The Committee also welcomes the establishment, throughout the EU, of permanent observation plots (Level II) in which much more intensive investigations are carried out. It is intended to use the relevant findings to shed light on the complicated links between damage to forestry and atmospheric pollution.

3.3.1. It should be pointed out in this context that initial findings from permanent observation plots will be not be available until 1997. In order to identify clear-cut trends monitoring must continue for a further ten years at least, as particular surveys can only be carried out every five to ten years.

3.3.2. The assessment of data from the intensive monitoring, the standardization of methods of measurement and the ongoing exchange and comparison of information with other research centres at international level involves close cooperation at EU level.

3.3.3. The objectives of the intensive monitoring programme will be most readily attained if a large number of states participate. The states already taking part should therefore continue to be supported and encouragement should be given to other states who express an interest in participating.

3.4. A number of national reports indicate that a wide range of factors are responsible for damage to forests and that when they affect forests, complicated linkages emerge between these factors. The influence of these biotic and abiotic factors on the vitality of forests and the interaction between these factors should in future be subject to more intensive analysis. The Committee therefore recommends that steps be taken to make measures in respect of such factors eligible for EU aid.

## 4. Specific comments on the proposed EU measures to protect forests against fire

4.1. EU fire-protection measures will only be meaningful if they are implemented under a coherent forestry policy. At European level such a policy should fall within an overall development policy for rural areas, as defined in the Cork Declaration [1]. The protection of forests against fire is of considerable importance in the context of land-use planning policy.

4.2. The Committee warmly welcomes the information system on forest fires, which was planned on the basis of a pilot study [2]. The system currently covers a large number of areas in the southern Member States of the EU. The Committee welcomes the information system as it provides an improved basis for our — so far inadequate — knowledge about the causes of forest fires.

4.2.1. The Commission states that over the last ten years, there has been an improvement in the effectiveness of fire-protection measures in the EU Member States (and hence in the European Union): the overall area damaged by fire has decreased and the average area covered by individual fires, along with fire brigade reaction time, has also been cut. The considerable increase in the number of fires is however a matter for concern. In over 50 % of cases the cause is unknown, and more research should therefore be carried out into this area. It would be a worthwhile exercise to analyse the socio-economic aspects involved, such as farming, the flight from the land and tourism.

4.3. It is pointed out that 60 % of the afforested areas which pose a fire risk are in private hands. Bearing in mind that these afforested areas — particularly those located in southern Europe — have an intrinsically low level of profitability, the cost-intensive fire prevention

[1] European Conference on Rural Development held in Cork (Ireland) on 7-9 November 1996.

[2] European Commission: Forest fires in the south of the European Union; Pilot project in preparation for setting up the Community forest fire information system, Brussels, 1996.

measures jointly financed by the EU are justified in the case of privately-owned forests where other sources of funding are not available. The proposed additional funding for the extended life of the regulation is adequate.

4.4. With a view to supplementing action at EU level, steps should be taken to establish suitable plans at both national and regional level for reducing the impact of fires on forests.

4.5. In this context, the Committee would also highlight the importance of the Standing Forestry Committee and the proposed advisory committee on forestry; these committees could provide vertical channels of information between regions, Member States and the Commission.

Brussels, 27 November 1996.

*The President*
*of the Economic and Social Committee*
Tom JENKINS

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## Opinion of the Economic and Social Committee on 'The impact of the introduction of new technologies on employment'

(97/C 66/20)

At its meeting of 21 February 1995, the Economic and Social Committee, acting under Rule 23(3) of its Rules of Procedure, decided to draw up an opinion on 'The impact of the introduction of new technologies on employment'.

At its meeting of 21 December 1995, the Economic and Social Committee, acting under Rule 19(1) of its Rules of Procedure, decided to set up a sub-committee to prepare the Committee's work on the subject.

The sub-committee adopted its draft opinion on 11 October 1996. The rapporteur was Mr Cal and the co-rapporteurs were Mr Bernabei and Mr Ramaekers.

At its 340th plenary session of 27 and 28 November 1996 (meeting of 27 November 1996), the Economic and Social Committee adopted the following opinion by 80 votes to five, with five abstentions.

### 1. Introduction

1.1. The Economic and Social Committee held a special plenary session on employment in October 1995. In the course of this plenary session a number of Opinions were discussed [1] which had been prepared by the relevant sections on matters directly relating to debates in Community bodies and which had one aspect in common, namely, their impact on employment (see special brochure on this subject).

1.2. The present own-initiative opinion aims to enlarge on, update and study in greater depth the subjects under discussion and look specifically at the impact of the introduction of new technologies on employment. This subject has been dealt with extensively by various Community and international bodies; some pieces of work stand out, such as the recent OECD study on 'Technology, productivity and job creation', the European Commission's Green Paper on the information society [2] and reports by the Consultative Group on Competitiveness [3], the Forum on the information

[1] OJ No C 18, 22. 1. 1996, p. 37, 42, 54, 68, 74 and 83.

[2] COM(96) 389 final.

[3] Advisory group set up by the Commission in February 1995 as indicated at the Essen European summit. It comprises 13 experts representing private and public sector banking, major companies and social groups, chaired by Mr C.A. Ciampi, former Italian Prime Minister and Governor of the Bank of Italy, together with a permanent representative of the Commission.

society (1), and the High-level Group on the information society (2). Other studies and has issued or is going to issue an opinion (the White Paper on education and training — towards the learning society, the Green Paper on innovation (3), possibly a communication on tele-work, etc.), have analysed these issues, and this clearly demonstrates how topical and important they are.

1.3. The Committee does not intend to duplicate other current work and discussions but does wish to issue an Opinion on the matters which it considers to be most important and to make appropriate recommendations and proposals to the European Union's decision-making bodies; these could also serve to broaden the debates between the socio-occupational organizations represented on the Committee.

## 2. General comments

2.1. It is a fact, backed up by economic theory and the historical evidence up to the early 1970s, that long-term productivity growth has been a key factor in sustained economic growth, increases in income and standards of living, and job-creation. However, particularly from the mid-1970s onwards when the economic growth rate in Europe and the United States has been lower than post-war levels, questions have arisen about how the current situation has come about, all the more so since it is generally felt that technological developments have speeded up over this period, particularly over the last ten years (information and communication technologies, biotechnology, new materials and energy technologies).

2.2. Various explanations have been put forward for this 'productivity paradox': faulty and problematic measurement of economic phenomena such as productivity, the relationship between macro-economic conditions and the innovation process, and the fact that present-day business and social models are not geared to making full use of new technologies' potential. In a macro-economic context where the growth in final demand has slowed down compared to past rates and the working population has continued to expand, the result has been to contribute to rising unemployment, particularly long-term unemployment, unemployment amongst unskilled workers and young people looking for their first job.

2.3. Views on future prospects differ. On the one hand, there are those who think that current changes are so radical and qualitatively different from those in the past that they require a complete rethink of the way that work and income are shared out. On the other hand, there are others who feel that the current imbalance between labour supply and demand is temporary and that current labour-shedding through the introduction of new technologies, especially information and communication technologies, will be followed by an upsurge in employment, notably in new sectors and activities. In both cases it is recognized that the effect on job creation will not be automatic and that macroeconomic and microeconomic policy initiatives more favourable to economic growth and job creation are now required. The European Commission's White Paper is a recent example of such an initiative.

2.4. In the past, technological changes spread slowly and were confined to certain sectors of the economy; this meant that jobs lost in one sector could be offset by job creation in others (typical examples of this are the shift of farm workers to industry or from the manufacturing sector to services). Nowadays however, new, low-cost technologies spread quickly to all sectors of economic life and almost all areas of social life.

2.5. The rate at which technologies have been introduced is slower in Europe than in other, more dynamic parts of the world, and has not been accompanied by the increase in investment which in the past helped offset the jobs lost. Although return on investments in the EU has again reached the historic high levels of the '60s, investment in the EU continues to focus on rationalization rather than expansion.

2.6. The growing incidence of speculative financial investment, encouraged by the free movement of capital

(1) The Forum on the information society is an advisory group which met for the first time on 13 July 1995 in Brussels, under the chairmanship of Mr Martin Bangemann. The Forum has 125 members, appointed on a personal basis and including representatives of users of new services (companies, public services, consumer associations, SMEs, the professions), social interest groups (trade unions, employers' organizations, universities, family associations), content and service providers (publishers, broadcasters etc.), network operators, equipment manufacturers and institutions (EP, ESC, COR, data commissioner, local and regional authorities).

(2) A group of senior experts concerned with the social and societal aspects of the information society. The members of this advisory group are selected in agreement with the commissioners responsible for social policy, the information society, research and education, the internal market, and regional policy.

(3) OJ No C 212, 22. 7. 1996.

and which may entail a lower degree of risk and may have, in some Member States, less disadvantageous tax conditions applied to it, could also have operated against productive investment.

2.7. The development of a 'culture of the new' is therefore indispensable from the standpoint of both supply and demand and will require the participation of the two sides of industry, the education and training sector, and the public authorities as a means of imparting a positive orientation to the growth-technology-employment dynamic. A virtuous circle must be created between purposeful planning, optimum use of human resources as the essential agents of development and a socio-economic development model which fosters a favourable attitude to technology and global competitive challenges, reduces uncertainty and provides incentives for the establishment of a new professional and entrepreneurial spirit. Europe's future and its place in the world depend in its capacity for innovative culture, since culture is the strategic resource which will determine the relative competitive advantages of Europe and the other main regions of the world.

2.8. At the microeconomic level, it is true that the dichotomy between skilled and non-skilled labour is gradually changing into a dichotomy between creative, participative labour on the one hand and routine, supervised labour on the other. The structure of employment is also changing significantly, with less full-time, permanent paid employment and more part-time, temporary contracts, self-employment and 'pseudo' self-employment.

2.9. The growing inequality between workers which has appeared over the last few decades has also been the consequence of a deterioration in the circumstances of less-skilled workers and a greater demand for skilled workers with new abilities. This new demand has partly been due to stiffer requirements in terms of qualifications and abilities, in the wake of technological innovation. However, it has also been due to greater competitive pressure flowing from the globalization of production, international trade and outward direct investment.

2.10. New technologies may substantially expand the role of the individual in the production process, but they may also make the worker more vulnerable to changes in the way labour is organized. In some cases, the skills required have even been downgraded.

2.11. Even in manufacturing companies in developed countries, the bulk of spending on staff increasingly tends to go towards functions which are not directly connected with production-type activities (research, design, marketing, supervision, finance, training, management and information technologies). Costs associated with directly production-related staff have fallen in relative terms and in some cases account for less than a quarter of the total personnel costs.

2.12. As a result, industrial companies embrace more and more services (either in-house or subcontracted to outside companies) and the sector providing services to companies is expanding. These organizational changes are taking place in parallel to developments in management theory (total quality management, 'just in time', 'kaizen', 'lean production').

2.13. The dissemination of the results of research and development can stimulate benefits in economic terms. Where previously this was reflected in increases in productivity levels with the purchase of new productive equipment, it is now more evident in the service sector with the use of information and communication technologies. Whereas it should continue to be a priority to provide support and encouragement to R& D and to devise new products and processes, greater emphasis should be placed on spreading technology throughout the economic fabric and to every region of the European Union and on exploiting ideas and processes which are already known and developed.

2.14. The way that companies are organized and their size are also changing: we have moved from a phase where large, integrated companies held sway thanks to economies of scale, to a period where small and medium-sized companies have come to play a major role, both in production and innovation and in job creation. The prospects now are for 'extended' companies to be strengthened and organized in cooperation networks around information systems, where entities with different business styles can co-exist within the whole.

2.15. So as to use new technologies more efficiently and to be able to compete more effectively in a global economy, companies are focusing more on their core activities, with more decentralized management structures and wider distribution of responsibilities, and they are requiring new, greater and diversified abilities of their workforce.

2.16. The accumulation of knowledge within companies is assuming increasing importance for their

competitiveness. Innovation is the process whereby new knowledge is transformed into new products and production processes. The extent to which technologies are used thus depends on the knowledge a company has accumulated and its capacity to organize its application.

2.17. Although it is an established fact that vocational training boosts a workforce's overall knowledge, some companies are moving away from investment in training because, the rush for short-term profits leads to cost-cutting, particularly of those costs where the effects are felt in the longer term. The OECD study even suggests that the fact that trained workers could be recruited by other companies may act as a deterrent to providing training.

2.18. The advocates of external flexibility (possibility of companies laying off and recruiting staff in line with changes in demand) and advocates of internal flexibility (where the aim is to safeguard acquired practical experience and accumulated knowledge) differ in their responses to the need for flexibility. Various recent examples suggest that it is easier for companies adopting greater internal, rather than external, flexibility to adjust to short-term economic fluctuations, as they appear to be better placed to react swiftly to them.

2.19. The employment impact of new technologies also depends on the way conflicts of interests in larger companies are solved between shareholders (and here investment funds are assuming increasing importance), managers (especially the senior technical staff), customers, suppliers (whose influence is growing as a result of the above-mentioned network operations) and workers.

2.20. Current perceptions about the changes now taking place and their impact on employment, work, access to knowledge, the law, culture, the authorities, education, inequalities, exclusion and ethics create not only hope but also fear, especially amongst the economically most vulnerable, insecure elements of the population.

2.21. In any transitional phase between two models of society and economic organization, there is necessarily a period of intense political debate which, if handled responsibly, is of enormous value in enabling technological and societal changes to be successfully anticipated and a new ethical approach to be consolidated, compatible with the social responsibility of companies and a social market economy.

2.22. The particular features of new technologies and their spread to all areas of economic and social life, further accelerate the changes taking place in society: changes in demography, markets, social structures and values. The information society or, as it is being called, the learning society (which is taking on a new technological base with information technologies) is now taking shape, and the social and cultural aspects cannot be separated from the technical and economic ones.

## 3. Recommendations and key proposals

3.1. The right conditions have to be created to broaden the democratic debate on what social model will provide the best conditions for making full use of new technologies in response to people's growing, diverse needs.

3.1.1. To ensure the smoothest transition from the current post-industrial society to the learning society, the political powers have to encourage as wide-ranging a debate as possible on the issues at stake so as to manage the processes of change, improve their acceptance, and anticipate and minimize their negative consequences.

3.1.2. The different aspects of the society now taking shape have been analysed extensively — increasing digitalization, virtual reality, the multimedia, fragmented social structure, network operations, incorporation of technology, constant product and process innovation, real time economy, direct contacts between producers and consumers, and globalization of markets. The way changes are occurring has a profound impact, particularly on changes to the labour market and on increasing inequalities in income, knowledge and activities.

3.1.3. Social cohesion, the preservation of cultural and institutional variety and moves to reconcile technological efficiency with quality of life are vital to secure sustainable, long-term development.

3.1.3.1. Social cohesion, as the OECD report acknowledges, as well as being valuable in itself, is also an important economic asset, and the way that the 'winners' can compensate the 'losers' in the process of change should be debated and resolved.

3.1.3.2. Diversity of resources and innovation systems improves efficiency. It is necessary to ensure that monoculturalism is not imposed and that interlinks between the different systems and cultures serve to reinforce global synergies.

3.1.3.3. Key aspects of this debate are the move from social acceptance of technological change to social consultation on its introduction and to the control by

society of its implications, together with the potential use of new technologies to meet new requirements for a better living environment.

3.2. Education and training are increasingly recognized as the main vectors for identification, integration, social advancement and personal fulfilment, and as key factors in equal opportunities.

3.2.1. In the learning society where the flow and volume of information are increasing sharply, where there are more and more technological and economic changes and where the nature of work and the organization of production and services are changing, a climate is needed in which people are ready to assume their responsibilities and act with greater autonomy.

3.2.2. In addition to changes in supply, final users and consumers must be familiarized with new needs, if 'technological unemployment' is not to get worse. As the Consultative Group on Competitiveness acknowledged, the shift to an information society will be faster and easier if, in addition to technological stimuli, there is pressure from demand [1].

3.2.3. It is necessary to adjust teaching methods and curricula so as to anticipate what skills will be needed and draw on the potential created by new technologies, in order to minimize the negative effects and maximize the positive ones.

3.2.4. Teaching teachers and training trainers is all the more important given that in some areas, young people are more familiar with the new technologies than those who are supposed to be instructing them. A bridge between school and the workplace can play an important catalyzing role here. Budgetary resources in keeping with the importance of this priority must be made available.

3.2.5. Vocational training must cease to be purely reactive and must succeed in anticipating new roles, new divisions of tasks and new responsibilities. It must be seen not as an expense which supplements investment in new equipment, but as an integral part of the process of organizational change and adjustment; this requires skills such as the ability to work in groups, solve problems and plan.

3.2.6. Life-long training and continuous acquisition of skills are essential to avoid a rift between those who know and those who do not, between those who can act effectively and those who suffer the consequences and are marginalized.

3.3. The role of the public sector must be reassessed and brought up to date to meet the need to create the infrastructures required for developing and applying new technologies, particularly information and communication technologies, and to ensure that they spread rapidly across the whole productive fabric. The cutbacks in public investment over the last few years may now make it difficult to regain the necessary levels. Implementation of the trans-European networks is vital to the provision of coherent, modern Europe-wide infrastructures.

3.3.1. National and Community public research and technological development policies must lend greater support to research in areas of public interest such as education, health, the environment and areas of joint public/private interest such as transport, communications, energy and the urban environment. They must fulfil the requirements of society, helping to boost competitiveness and safeguard jobs.

3.3.2. The industrial competitiveness objectives prioritized by the R& D programmes must seek to respond to the growing potential demand from society and allow constant improvements in new products, systems and services.

3.3.3. The public and private sectors as a whole can help here by linking up infrastructure initiatives and coordinating R&D programmes to provide a vital impetus to the innovation process. However, the public sector can also, through the demand created by public procurement, establish more propitious conditions for innovation.

3.3.4. The public sector is also influential in creating the regulatory framework within which companies operate, particularly the completion of the Single Market. It must help, as far as it can, to formulate the strategic options about which companies need sufficient advance warning.

3.3.4.1. National and Community R&TD policies must be based on forecasting and information instruments covering technological and employment scenarios with a view to the coordinated and consistent development of 'trend charts' using EU networks for early exchange of information on both employment conditions and technological assessments. These technological-

[1] Report of June 1995, point IV.2 — definition of strategy.

employment scenarios must enable researchers to define R&TD priorities using a bottom-up approach and to coordinate their work in integrated European projects.

3.4. The way firms are organized, particularly in the matters of production, R&D and human resource management, has evolved relatively slowly. A number of studies have concluded that the slow pace of organizational innovation in both the private and public sectors explains why rapid technological progress has not yet significantly improved overall productivity.

3.4.1. The need to boost competitiveness and the changes in management theories must be turned to good advantage. The aim should be to streamline complex, bureaucratic management structures; to integrate planning and implementation processes; to speed up the 'design cycle', make it more effective and gear it to facilitating the organization of production and services; to eliminate non-productive activities, improve quality, shorten delivery deadlines, cut costs; to make production and services more flexible and thus respond better to changes on the increasingly global market. This will make it possible to establish long-term relations with suppliers and customers, and help to improve the overall quality of company networks.

3.4.2. Current efforts to introduce new equipment and provide technical vocational training are improving companies' capacity for response, but are not having a corresponding impact on global productivity; this is especially the case when these efforts are not accompanied by far-reaching changes in organization and management.

3.4.3. A variety of factors may thwart the process of transforming the way work is organized. This process needs strong leadership which can impress on people a sense of urgency which will motivate them. Such leadership needs to be based on a candid, realistic analysis of the less palatable aspects; it should promote cooperation within a group that has a sufficiently solid base in terms of information, knowledge, reputation and human relations; it should present a vision of the company which is sufficiently motivating and logical, rather than a mishmash of incompatible plans. Such leadership should convince people that change is possible, and should mobilize them to work towards this objective to the extent that they will accept short-term sacrifices; it should use each and every one of the channels available for communication with personnel; it should enable obstacles to the transformation process to be overcome in a socially acceptable manner and should plan visible improvements; but it should not shout victory at every step and should be aware that the process will be a long one. Finally, leadership should ensure that the changes will percolate right through the firm's organizational culture, making them an integral part of the values and practices of that organization.

3.5. Changes in organization as well as aspects of new technologies and new competition conditions require new labour relations where workers are no longer limited to carrying out pre-established tasks, but have more scope for initiative and decision-making. Whether a labour force is capable of using new technologies fully and creatively, and of responding rapidly and flexibly to changes on the market, also depends on its level of motivation and involvement.

3.5.1. The use of new technologies to reinforce the Taylorist model, relegating workers to fragmented subordinate tasks following pre-established routines, is technically possible and has been the case in many firms. However, in the long term such an approach has meant that full use cannot be made of the new conditions: moreover, it runs counter to efforts to create more highly-skilled jobs.

3.5.2. Better results have been attained by another, more forward-looking model based on the joint use of technological and organizational innovation, where workers can combine technical knowledge with economic appraisal and, as well as widening their skills, can also carry out tasks involving different stages of the work process (problem diagnosis, machine maintenance and repair) and possess planning skills.

3.5.3. In theory there are various ways of defining the model for each company or service and of laying down rules for new labour organization; but the one which responds best to the European social model is through consultation and negotiation with workers' representatives. By means of a social dialogue at the different levels, resistance to change can be overcome, alternative prospects created and the link established between the training process and the process of changing organization and management.

3.6. The speeding-up of the technology-growth-employment dynamic threatens to aggravate social and regional exclusion. There is therefore a need for active policies to assist poorly-qualified workers and first-time job-seekers as the categories which are most economically vulnerable and likely to experience long-term unemployment.

3.6.1. The fight against exclusion should be further intensified in less-favoured regions whose geographical remoteness is aggravated by the lack of structures and infrastructures linked to the rest of the EU and by inequalities that are far greater in technological than in economic terms. Technological progress should therefore cover several levels — Community, national and regional — for the development, alongside advanced

technologies, of broad-based technologies which can also stimulate low-tech industrial sectors but which depend on advanced production processes in order to tackle growing international competition. In the context of the priority attaching to EU economic and social cohesion, Community R& TD policy should be coordinated with Structural Fund measures so as to maximize their interoperative potential.

Brussels, 27 November 1996.

*The President*
*of the Economic and Social Committee*
Tom JENKINS

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**Opinion of the Economic and Social Committee on:**

**— the 'Proposal for a Council Regulation (EC) establishing a system for the identification and registration of bovine animals', and**

**— the 'Proposal for a Council Regulation (EC) regarding the labelling of beef and beef products'**

(97/C 66/21)

On 17 October 1996, the Council decided to consult the Economic and Social Committee, under Articles 43 and 198 of the Treaty establishing the European Community on the above-mentioned proposals.

The Committee entrusted the preparation of the work on the subject to Mr Strasser as rapporteur-general.

The Committee adopted the following opinion at its 340th plenary session on 27 and 28 November 1996 (meeting of 27 November 1996) with 95 votes for, 4 against, and 4 abstentions.

## 1. Introduction

### 1.1. *Why existing arrangements require consolidation*

1.1.1. Fears over the safety of European beef and beef products have generated immense uncertainty, not only across the European Union but also in a range of non-member countries which have traditionally imported beef from Europe.

1.1.1.1. This has led to a fall in demand — in some cases on a dramatic scale — in almost all Member States and a slump in prices which has caused severe economic damage to EU farms, and to the cattle and meat trade both inside and outside the Union.

1.1.1.2. The frequent inadequacy, not to say absence, of information identifying the origin of meat and indicating other quality aspects has exacerbated people's insecurities and accentuated the drop in consumption. Meat is a highly sensitive product; new arrangements must therefore be made to improve identification, so as to provide a more comprehensive indication of 'quality'. After all, European consumers want to know what the product is that they are buying.

1.1.2. It is essential to find a quick, and above all clear identification system for meat and meat products in order to head off the charge of failure levied at the European Union's common agricultural policy. Any action taken in the beef sector will be compromised, unless people's need for safe products is met.

1.1.2.1. EU beef farmers have among the highest production standards in the world as far as natural methods and beef quality are concerned. This must be highlighted by a clear and understandable identification system.

1.1.2.2. A number of product safety requirements, not all of them related to the case in hand, need to be considered in the development of a new identification system. Attention must also be paid to the very varied traditions and different arrangements for beef trading and selling in the individual Member States.

1.1.3. A whole range of EU provisions already exists for identifying foodstuffs. Their application in meat marketing, however, has been both sporadic and inadequate. The improvements needed are clearly impossible without regulations prescribing obligatory minimum requirements for the identification of beef.

1.1.4. The Committee notes the inconsistencies in the Commission's proposed approach. The proposed extensive and, in some cases, laborious changes to animal identification contrast with the voluntary nature of meat identification. The justification for this approach does not seem clear, and it may not achieve the — in itself undisputed — objective set.

1.1.5. The Committee feels that other factors also call for a comprehensive identification system for bovine animals and for beef. For a number of years now, the European cattle market has hung in a delicate balance. Beef consumption, a crucial parameter for the long-term functioning of the market, has if anything been on a downward trend for years. The cattle cycle means that 1996 and the coming years should once again see a rise in production.

1.1.6. The commitments under the Uruguay Round of the GATT entail lower refunds and export levels and increasingly limit the scope for market control. Bilateral and unilateral EU commitments on the import of live cattle (lightweight and heavyweight calves, mountain breed livestock) and beef (high-quality beef, beef for processing), which are an important element in the European Union's trade policy, also serve to compound the difficulties on the EU's cattle market. This problem has increased dramatically because of the BSE crisis, without any fault on the part of farmers or the meat industry.

1.1.7. In contrast to other crises of confidence and slumps in sales in the meat sector, a number of forecasts also predict a medium-term drop of up to 15 % in normal beef consumption unless effective counter-measures are taken. This is due to the complex nature of the BSE crisis and to the fact that no adequate research has yet been carried out into whether the disease can be transmitted to humans; continued negative coverage from the media also exacerbates the problem.

1.1.8. A package of measures is the only way to get beef consumption back to normal:

- consistent eradication of the causes of BSE;
- removal of all problem animals from the market;
- continuation and expansion of the ongoing research programmes;
- a speedy improvement in the identification of bovine animals and beef, coupled with consistent implementation:
  - — animal identification at every stage;
  - — traceability of animals in the trade cycle;
  - — use of secure declaration systems for beef retailing.

1.1.9. The Committee therefore endorses in principle the European Commission's efforts in submitting two Council Regulations designed to create, within a short space of time, an EU-wide basis for improving cattle identification and the labelling of beef and beef products.

1.2. *Undisputed objectives*

1.2.1. In both April and September 1996, the Council of Agriculture Ministers called for introduction of an improved identification system for bovine animals and beef.

1.2.2. The European Trade Union Confederation (ETUC) issued an opinion on 7 June 1996, which looked in detail at the impact of the BSE crisis and pressed for a whole range of measures. The ETUC is particularly eager to see consumer confidence restored.

1.2.3. In its opinion on BSE entitled 'The Bovine Spongiform Encephalopathy (BSE) crisis and its wide-ranging consequences for the EU' [1], the ESC called for the introduction of an 'animal passport' for cattle which should give clear and comprehensive information designed to benefit consumers. The Committee also felt that measures were needed on the part of producers' organizations to boost the sales of clearly identified and classified meat, giving consumers security as regards the quality, origin and market value of the products.

## 2. Proposal for a Council Regulation establishing a system for the identification and registration of bovine animals

2.1. *Introduction*

2.1.1. Broadly speaking, the further standardization of arrangements for identifying cattle is to be welcomed.

[1] OJ No C 295, 7. 10. 1996.

Adequate certainty of livestock registration must be part of a comprehensive identification system. However, ease of implementation of systems in the individual Member States must be taken into account, as must existing identification systems. Moves must be made to avoid overburdening beef farmers and dealers so as to ensure acceptance of the system from the start.

2.1.2. Given the scale of trade in live animals, both within the single market and with non-member countries, it is necessary to amplify the existing Directive 92/102 in order to further standardize and improve documents.

2.1.3. However, a clear distinction must be made between:

— the ESC-backed improvement of livestock registration and beef labelling which is needed to boost consumer confidence in the long term and to improve the control of contagious diseases and;

— unnecessary increase in red tape which is of no relevance when it comes to identifying meat, and tightening of preventive measures in the integrated administration and control system.

2.2. *Comments on individual points*

2.2.1. The Committee welcomes the draft regulation. The ESC would point out, however, the major new departure which these arrangements constitute for the identification and registration of productive livestock in farms, in comparison with the provisions of Directive 92/102. Nonetheless, this approach would appear to be the best way of ensuring the speedy and uniform implementation of the proposed measures.

2.2.2. Since the existing regulation is already a significant factor in the integrated administration and control system, the time frame for implementation of new provisions must be calculated to ensure Member States can transpose it properly. The planned system must basically also ensure that the provisions are easy for farms to implement and involve a low cost per animal, and that identification by tagging both ears or electronic implants should cause the least possible discomfort to animals.

2.2.3. The Committee calls for the same terminology to be used in the draft directive as in Directive 92/102.

2.2.4. A switch to tagging both ears is the right move to ensure safe and durable identification. There must, however, be a phased transition, where only animals born after the regulation's entry into force need be tagged in both ears.

2.2.5. Article 3 gives no indication of who, other than the Commission and the competent authorities, are to have access to the information stored in the system. If consumer confidence is to be restored, the consumer organizations, which they trust, must be given the opportunity (without threatening data protection) to examine the information stored in the system. The definition of 'particular interest' would not be used to bar consumer organizations.

2.2.6. The introduction of an obligatory animal passport for each animal and the establishment of computerized data bases, as provided for in Article 3, represents an important step in keeping track of an animal.

2.2.6.1. Each animal must be traceable at every stage.

However, the Committee regards as unnecessary the provisions of Article 5(3) whereby:

— all the movements of each animal have to be logged immediately in the central data base and be available at any time, with the result that the data base has to contain a list of all the movements of each animal commencing from the holding of birth,

— while the same information is always available in the animal passport.

2.2.6.2. With a view to curbing red tape, consideration should therefore be given to whether the required objective could be achieved if each movement of an animal after birth were logged only in its 'passport', with the next entry in the central data bank being made only when the animal is slaughtered or moved either to another Member State or to a country outside the Union.

2.2.7. Identification of an animal within thirty days or before it is first placed on the market, as has been the rule up to now, should also be adequate for this system.

2.2.8. The requirement that the competent authority issue a cattle passport within seven days following notification of an animal's birth, as provided for in Article 6, will entail practical difficulties since, in some cases, many calves are put on the market earlier.

It should be possible for the keeper to activate the passport himself, under the control of the competent authority. The deadlines set for notifying the competent authority, as laid down in Article 7, must be practicable.

## 3. Proposal for a Council Regulation regarding the labelling of beef and beef products

3.1. *Introduction*

3.1.1. The ESC broadly backs the draft Regulation regarding the labelling of beef and beef products. Consumers increasingly want information, not only on the origin of the beef they buy, but on holding practices, feeding and environmental factors. The Committee takes the view that the regulation can meet the information requirements of many consumers and go a long way to helping restore consumer confidence in European beef.

3.1.2. During the present crisis, confidence was less undermined and the slump in sales less pronounced in markets with brand-based schemes which give consumers a clear indication of the region of origin of their meat, than in other markets. It was also possible to recoup any fall-off in consumption quickly in cases where the consumer had previously enjoyed a special relationship of trust with his or her butcher as a result of particularly attentive personal service and comprehensive information on beef.

3.1.3. The Committee is surprised, and extremely disappointed, that the Commission proposal makes no provision for obligatory labelling of origin for beef. The proposals made up to now for overcoming the crisis, coupled with the technical options available, make it possible to introduce an across-the-board binding system of origin identification. The introduction of such a system is the only logical solution, given the efforts made to improve the identification and registration of live cattle.

3.1.4. It would be an over-simplification to say that the consumer alone, by virtue of his purchasing power, is to determine the extent to which identification is in fact put into practice. There is a danger that, were participation in the identification scheme to remain voluntary, market players' willingness to take part in it would be blunted because of the requirements to be met. Only the obligatory introduction of a scheme of this nature can ensure that long-term confidence is restored.

3.1.5. The absence of identification systems which prove the link between animal and carcass will, according to the text as it stands at the moment, tend to undermine the identification of qualitative characteristics such as origin and feeding.

3.1.6. Given this point of departure, the Committee feels that the European Commission proposal should be geared to a new objective:

— general obligation to identify carcasses;

— in the case of fresh beef, obligatory identification at every stage, right up to the final consumer.

3.1.6.1. It is extremely important to use straightforward systems which spell out how to implement the obligatory identification arrangements for fresh meat, do not involve additional expense for economic players and allow all market operators, particularly butchers, to take part in the system without excessive effort. The Committee therefore calls for a general obligation to identify carcasses. This would represent considerable progress even where identification rules for products remained voluntary.

3.1.6.2. This could go a long way to making it possible, and indeed relatively easy, to subject fresh meat too to obligatory identification, even at the point of sale. Identification arrangements may differ for the sale of loose meat and unpacked cuts of meat, as opposed to packaged meat where labelling presents no great problem.

3.1.6.3. The Committee believes that the identification of beef products could be voluntary. The obligation to identify carcasses would also be an important prerequisite for the voluntary identification of processed products.

3.1.6.4. To secure consumer confidence in a system of this kind, it is essential that spot-checks, at least, be carried out by the authorities or other independent monitoring bodies.

3.1.6.5. The Committee believes that, to gain acceptance, identification data of fresh meat should be confined to a few pieces of important information:

— country of provenance and origin, and identity of the animal;

— category (bullock, heifer, etc.)

— abattoir.

3.1.6.6. It should also be possible to introduce additional, voluntary identification factors (in particular programmes with regional guarantees of origin for local breeds or 'controlled area of origin') and other information pursuant to Article 5 of the Commission proposal (e.g. feeding methods, grass feed).

3.1.7. The chosen flexible approach to the scope of labelling is to be welcomed since it is appropriate to the needs of the Member States and enhances the objectivity of information on beef; specification, or rather licensing, by the national competent authority should be retained.

3.1.8. The inclusion of imports from outside the EU is also a significant factor and is endorsed.

3.2. *Comments on individual points*

3.2.1. The exact definition of 'label' is of great importance. Article 1 refers to the labelling of 'beef or beef products in a detailed manner at the point of sale', while Article 2 goes further, and speaks of 'information provided to the consumer at the point of sale.' The ESC calls for a clear definition of the term 'label'.

3.2.1.1. The Committee takes the view that, in line with the basic directive on labelling (79/112 EEC), the more comprehensive definition is the definitive one. The Committee feels that 'labelling' encompasses the advertisement and advance notice of a product, pricing and/or identification at the point of sale, in line with Directive 84/450 concerning misleading advertising.

3.2.2. It would be useful for the implementing provisions to clarify how far the measures to be taken to ensure the accuracy of the information, as set out in the second indent of Article 3(1), must be retained for specification by the competent authority. It is important that the labelling scheme should be stringently enforced without adding unnecessarily to costs. It is also very important that the resources available should be spent mainly on enforcement spot checks in order to ensure that traders live up to the claims they make on paper.

3.2.3. Whatever the case, the ESC feels it essential that there be an additional control of the system of guaranteeing the origin of beef by a nationally authorized independent control body.

3.2.4. Apart from the identification factors mentioned in this article, certain tags or quality certificates should be permitted for the purposes of collating the relevant information.

3.2.5. Member States should have the option of expanding the sanctions listed under Article 7 (withdrawal of approval, imposition of supplementary conditions) by introducing effective instruments, particularly in cases where identification is obligatory, aimed at preventing misuse and misleading of consumers.

Brussels, 27 November 1996.

*The President*

*of the Economic and Social Committee*

Tom JENKINS