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(Preparatory Acts)

ECONOMIC AND SOCIAL COMMITTEE

Opinion of the Economic and Social Committee on the 'Green Paper — The role, the position and the liability of the statutory auditor within the European Union'

(97/C 133/01)

On 29 July 1996 the European Commission decided to consult the Economic and Social Committee under Article 198 of the Treaty establishing the European Community, on the 'Green Paper — The role, the position and the liability of the statutory auditor within the European Union'.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 February 1997. The rapporteur was Mr Moreland.

At its 343rd plenary session (meeting of 26 February 1997) the Economic and Social Committee adopted the following opinion by 84 votes to two with two abstentions.

1. Commission presentation

The Commission believes that a lack of a common view and common action at the EU level on the statutory auditor has a negative impact on the potential reliability of financial accounts as a result of concerns over audit quality and on the freedom of establishment and the freedom to provide services in the audit field. It wishes to ensure that auditing services enjoy the full benefits of the single market.

The Commission invites comment on a number of areas including:

— independence requirements of auditors;

— accuracy of financial statements;

— the auditor's role in relation to environmental and societal matters;

— contents of the audit report;

— differences in educational requirements and systems for auditors;

— rotation of auditors;

— appointment and approval of auditors;

— professional liabilities;

— audit of small companies;

— group audit arrangements.

2. Commission conference

2.1. The Commission organized a conference on the Green Paper in Brussels on 5 and 6 December 1996 involving 200 representatives of professional institutes and public authorities. The Commission drew 'tentative' conclusions from the Conference. These included placing emphasis on initiatives from the accounting profession, the possible establishment of a technical subcommittee, a study on professional liability, an examination of Article 2 of the 8th Directive [1], a possible sectoral directive relating to freedom of establishment and

[1] 84/253/EEC Eighth Council Directive of 10 April 1984 on the approval of persons responsible for carrying out the statutory audits of accounting documents (OJ N° L 126 of 12. 5. 1984).

freedom to provide services in the audit field, and that small companies should not be made subject to a mandatory audit.

2.2. This opinion has taken account of the Conference and the 'tentative' conclusions.

3. General comments

3.1. The Committee welcomes the Commission green paper as provoking much needed discussion on the way forward in ensuring high and compatible standards in auditing and for providing the basis for the European Union's approach towards international standards setting.

3.2. The Committee recognizes that, although all Member States share the common goal of ensuring that published accounts and financial statements should show a true and fair picture of the financial state of a company, legislation and custom and practice varies widely between the Member States and there is no consensus on a number of issues. Consequently the Committee urges the Commission to establish priorities and an action plan in terms of minimum requirements for the EU. It should encourage as far as possible the accounting profession itself to bring its procedures together across the EU i.e. self-regulation. However this should involve discussion with a wider range of interested parties e.g. shareholders, company directors, etc. and should be carefully monitored by the Commission. The Commission should produce a report on progress in this area for the Council, Parliament and the Economic and Social Committee at regular intervals. In general the Commission approach should be on subsidiarity and flexibility. The Committee cautions that a clear examination be made of the costs of all new legislation and rules to ensure the costs do not outweigh the benefits particularly on small companies.

In undertaking any changes care should be taken to avoid imposing requirements which could be met by firms and auditors only with difficulty or at significant cost.

In parallel with the internationalization of material accounting rules via the work of IASC/IOSCO, the aim should be international approximation, particularly in view of the progress already made via IFAC. This should be assisted if the emphasis is on professional self-regulation.

3.3. The Committee emphasizes that priorities must be given to areas where current national legislation and practice is an obstacle to the operation of the Single Market. In this context the following areas merit priority:

— areas which restrict the freedom of establishment and the freedom to provide services;

— group audit arrangements across several Member States;

— ensuring that the developments in international standards in auditing correspond to what we want to apply in the single market;

— a common approach to the role and legal status of the statutory auditors;

— ensuring that the accounts are seen to be audited independently ;

— educational requirements.

In addition the issue of professional liabilities is an important one for the auditing profession in all Member States. Consequently it proposes that there should be coordination between the Member States and the EU on this subject without prejudice to efforts to devise a minimum framework of technical and legal procedures applicable across-the-board in all Member States.

3.4. The Committee calls on the Commission to make clear its conclusions as to the course of action which should be adopted once the present consultation phase has been completed.

4. Specific comments

(The comments follow the format of the green paper).

4.1. *The role of the statutory auditor* (3.1-3.38)

4.1.1. A definition of the statutory audit (3.1-3.7)

Any agreed definition should not be restrictive in its application. In any event the Committee believes the focus should be on the objectives of the audit and on agreeing how auditors should report their conclusions to the users of accounts. The Committee believes the initiative for a 'definition' should come from the accounting profession — rather than be based on an EU directive or recommendation.

4.1.2. The accuracy of financial statements (3.8-3.13)

The Committee supports the Commission's comments. However the accounting framework must be clearly defined in the most appropriate manner, taking account of the work carried out by the professional bodies referred to in 4.1.7. The auditor should make clear reference to the defined framework used.

4.1.3. The going concern status/solvency of the company (3.14-3.21)

The Committee agrees with arguments of the green paper. Care must be taken in reporting the outcome of any evaluation of the status of the company, neither to mislead nor to jeopardize the success of corrective measures that may already have been introduced.

One possibility is that, if the auditors have some concerns about the going concern status, for the directors to be required to make a statement which is commented on by auditors. (This is an issue that should be taken into consideration in any examination of corporate governance — see paragraph 4.2.3).

4.1.4. The existence of fraud (3.22-3.29)

The Committee recognizes that the primary responsibility lies with the directors to prevent and to detect fraud and to establish satisfactory internal controls including internal audit procedures where appropriate.

However as the Commission indicates, there is considerable belief by the public that it is the statutory auditors' responsibility to detect fraud. The Committee agrees that there is an onus on auditors to respond positively to this belief.

It is important, in matters of fraud, to distinguish between the different phases (detection, prevention, declaration) and to take account of the fact that the role of the statutory auditor may vary as a result.

It is doubtful that the auditors' report should comment on the company's internal audit procedures. Internal audit procedures have to be checked by the auditors before any audit report can be issued. Only if such assessment is negative, a specific report should be made to the company's audit committee.

4.1.5. The respect by the company of its legal obligations (3.30-3.32)

The Committee agrees with the green paper.

4.1.6. Responsible behaviour by the company with regard to environmental and societal matters (3.33-3.35)

In connection with their basic role, which is to testify that a company's financial records are true and fair, auditors must confirm that all liabilities are recorded and are reflected in the accounts of a company. These include environmental or societal liabilities where they are likely to affect the company's financial situation.

The Committee supports the need for major companies to be subject to an audit of their social behaviour, and agrees this should cover not only the physical environment but other areas such as employment practices. However this clearly involves different skills from that of an auditor dealing with financial accounts, i.e. the 'statutory' auditor need not be the person to be responsible for this work.

4.1.7. The Audit Report (3.39-3.46)

The Committee believes that support should be given to the work of the International Auditing Practices Committee of the International Federation of Accountants (IFAC).

4.2. *The position of the statutory auditor* (4.1-4.36)

4.2.1. The competence of the statutory auditor (4.1-4.6)

The Committee thinks that the Eighth Directive [1] should be adapted eventually to the guidelines put forward in the green paper and the recommendations of the conference mentioned in point 2.1 above as amended following the consultation process. However the adaptations should cover areas not covered by self-regulation.

The Committee proposes that more attention be given to practical training and continuous professional education. The Committee would welcome closer coordination on the curricula for the training of auditors and notes that the Commission intends to examine the possible creation of a Standing Committee on education in the accounting field.

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[1] See footnote 1, p. 1.

4.2.2. The independence of the statutory auditor (4.7-4.28) — Definition of the independence

The Committee emphasizes the importance of the auditor being independent and being seen to be independent.

However, the Committee recognizes — as does the green paper — that there is no clear consensus on such issues as auditors providing non-audit service. The Committee notes and agrees in general with the Commission statement that 'the auditor should not be engaged in the preparation, inter alia, of the financial statements of his client'. The auditor should not be involved in management or in the decision making in the company being audited.

The Committee recognizes that for small companies with limited accounting skills the auditor could play a more direct role in advising on procedures and preparing accounts.

The Committee would welcome a common core of essential principles on independence being proposed by the accounting profession. Consequently, the ESC supports the 'tentative conclusion' of the Commission that the core set of principles on independence which the Fédération des Experts Comptables Européens has undertaken to develop should be examined by a proposed new technical sub-committee of the Contact Committee on the Accounting Directives. However, the ESC considers it to be essential that the technical sub-committee should include in its membership representatives of a range of interested parties including both audited bodies and users of audited accounts.

4.2.3. The position of the statutory auditor with the company — The statutory audit and corporate governance (4.18-4.28)

The Committee appreciates the merit of the use of audit committees. However, any legislation should allow flexibility in national practices. At this time the Committee agrees legislation would be premature.

While appreciating the importance of the internal audit function the Committee does not support binding legislation on this subject.

The Committee believes that the application of principles of corporate governance to auditing must be preceded by clear guidelines at EU level on corporate governance.

4.2.4. The role of governmental and professional bodies quality control (4.29-4.36)

The Committee agrees with the views of the Commission.

4.3. *Auditor's civil liability* (5.1-5.7)

The Committee recognizes that this is an important issue for the auditing profession. The Committee recognizes that the legal traditions in the Member States on this issue are quite different. Nevertheless it suggests that, as all Member States need to address the issue, there should be coordination of approach. The Committee would welcome cooperation between the profession and the Commission in producing concrete proposals. The Committee agrees liability should be in proportion to the degree of fault. The Committee welcomes the proposal of the Commission to study the differences in the legal systems of the Member States.

The subject of professional indemnity in this context needs further study.

4.4. *The statutory audit in small companies* (6.1-6.7)

The Committee recognizes that a balance has to be achieved as regards putting extra burdens on small business and ensuring that all companies must produce accounts that are not misleading. The Committee believes that companies should be required to have their accounts properly audited and agrees with the Commission that there should not be an exception for medium-sized companies. However, small companies should not be subject to a mandatory audit requirement by a qualified professional.

Cost burdens relating to other issues in this paper e.g. corporate governance and environmental and societal audits are likely to be disproportionally high for small companies. Small companies should not be subject to these requirements.

4.5. *Group audit arrangements* (7.1-7.4)

This issue needs further examination.

The Committee recognizes that national laws might frustrate the group audit process. The Commission should look at the possibility of EU legislation governing access to information in groups.

4.6. *The freedom of establishment and the freedom to provide services* (8.1-8.13)

4.6.1. Freedom of establishment and freedom to provide services for individuals (8.3-8.5)

The Committee believes this is an area which needs more analysis.

The Committee generally agrees with the green paper but does not see the relevance of the remarks with respect to delegation.

4.6.2. Freedom of establishment and the freedom to provide services for audit firms (8.6-8.13)

Clearly, as with some other professions like lawyers, freedom of establishment is not fully possible. This is a subject which requires more detailed review leading possibly to further legislation.

Brussels, 26 February 1997.

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 laying down a procedure for the provision of information in the field of technical standards and regulations'

(97/C 133/02)

On 13 February 1997, the Council decided to consult the Economic and Social Committee, under Article 100a of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 February 1997. The rapporteur was Mr Maurer.

At its 343rd plenary session (meeting of 26 February 1997) the Committee adopted the following opinion by 89 votes to two with four abstentions.

The Committee has examined the Commission document in detail and notes that the proposed consolidation exercise does not involve any substantive changes or additions. Since at any event such an exercise simplifies matters for the user, the Committee endorses the Commission proposal.

Brussels, 26 February 1997.

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 on the approximation of the laws of the Member States relating to machinery'

(97/C 133/03)

On 14 February 1997 the Council decided to consult the Economic and Social Committee, under Article 100a of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 February 1997. The rapporteur was Mr Burkhard.

At its 343rd plenary session (meeting of 26 February 1997), the Committee adopted the following opinion by 90 votes to one with two abstentions.

1. Introduction

1.1. In the context of the plan for building a Europe which is 'close to its citizens', the Commission thinks it is particularly important for Community legislation to be simple and clear and thus generally understandable. This aim is undermined by the need to adapt legal texts time and again to rapid developments on the ground.

1.2. The Commission therefore decided on 1 April 1987 to instruct its staff to consolidate or codify legal texts once they had been amended ten times or even earlier, if necessary. However, this should not involve any substantive changes to these texts.

1.3. The conclusions of the December 1992 European Council in Edinburgh stressed the importance of consolidating or codifying legal texts as it contributed to legal certainty.

1.4. The aim of the present proposal is to issue a new directive which codifies Directive 89/392/EEC and the three texts amending it, while fully preserving their substance.

2. Gist of the Commission text

2.1. The 79-page proposal starts by explaining the reasons for the codification exercise and then reprints word-for-word the text of Council Directive 89/392/EEC of 14 June 1989, incorporating at the appropriate places the provisions of the amending Council Directives 91/368/EEC of 20 July 1991, 93/44/EEC of 14 June 1993 and 93/68/EEC of 22 July 1993. This is followed by Annexes I-VII setting out the health and safety requirements and monitoring and labelling procedures. Two new Annexes, VIII and IX, indicate the correlations between Directive 89/392/EEC and the proposed directive.

2.2. The codification proposal is based on a consolidated version of Directive 89/392/EEC and its amending directives. This consolidated version was produced by the Office for Official Publications of the European Communities with the aid of the data processing system referred to in the Edinburgh European Council conclusions.

2.3. The codification proposal has preserved the substance of the codified legislation in full, and formal changes have been made only where necessary.

3. Suggestions

3.1. Since the legislation covered by the codification has been taken over as it stands — including mistakes (e.g. punctuation forgotten in the German version of Annex IV.A.9, which should read 'Pressen, einschliesslich Biegepressen, für ...'), the text should perhaps be revised for drafting errors.

3.2. There seems to be no point in retaining a provision which refers to Commission activities before 1 January 1994. It is therefore proposed that Article 13(2) be deleted. The correlation with Article 13(4) of Directive 89/392/EEC should also be corrected in Annex IX.

3.3. According to the second paragraph of Article 14, references to the repealed directives should be construed as references to this directive and be read in accordance with the correlation table in Annex IX. However, Annex IX only lists correlations with Directive 89/392/EEC and not with the other directives that have been repealed. It is therefore proposed that Annex IX also list correlations with Directives 91/368/EEC, 93/44/EEC and 93/68/EEC.

3.4. In the introductory sentences to Annex I, Annex V, Annex VI and Annex VII the references to Articles 1(2) should be expanded to indicate either subparagraph (a) or (b).

4. Conclusions

4.1. The Committee basically welcomes every effort by the Commission to consolidate or codify legislation which repeated amendments have made unclear. This will make Community legislation easier to understand and follow.

4.2. When the Committee originally discussed the legal texts now being codified, it endorsed them by a large majority. It also recommended that the texts be codified [1].

4.3. Despite its rather high number of derogations the proposal, in approximating national legislation on machinery, guarantees that high safety standards will apply to machines and that machines can be freely traded and used if they comply with the directive's safety and health requirements.

5. The Committee therefore endorses the Commission proposal for a European Parliament and Council Directive on the approximation of the laws of the Member States relating to machinery in its present codified version.

[1] Opinion of 26. 5. 1992 on COM(91) 547 final — OJ No C 223, 31. 8. 1992.

Brussels, 26 February 1997.

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 93/75/EEC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods'

(97/C 133/04)

On 17 October 1996 the Council of the European Union 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 12 February 1997. The rapporteur was Mr Chagas.

At its 343rd plenary session (meeting of 26 February 1997), the Economic and Social Committee adopted the following opinion by 98 votes for and two votes against.

1. Introduction

1.1. The aim of Directive 93/75/EEC [1] is, by introducing a requirement for ships to report specifically, to improve prevention and remedial action in the event of circumstances at sea which might lead to accidents involving ships carrying dangerous or polluting goods.

1.2. The directive is primarily concerned with the notification procedure to be followed by vessels carrying dangerous goods in bulk or in packages and the type of information to be supplied to the relevant authorities; such vessels must provide port authorities with information about the vessel and its cargo, vessels must avail themselves of the pilot services and provide pilots with detailed information about vessels; it instructs pilots to inform port authorities about deficiencies they find

[1] Council Directive 93/75/EEC 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). ESC opinion: OJ No C 329, 30. 12. 1989, p. 20.

which may prejudice the safe navigation of the vessel; it obliges coastal states to inform all vessels in their territorial waters of the presence of any ship known to be carrying dangerous goods that may pose a threat to other shipping.

1.3. Directive 93/75/EEC also sets up, in Article 12, a committee composed of representatives of the Member States, to assist the Commission in future amendments to the directive, in order to:

— take into account subsequent amendments which have entered into force to the instruments referred to in Article 2, and

— adapt the implementation of the directive in the light of scientific and technical progress, without broadening its scope.

1.4. The directive was first amended by Commission Directive 96/39/EC [1] in order to apply, in accordance with Article 11, subsequent amendments to the international convention, codes and resolution referred to in Article 2(e), (f), (g) and (h).

1.5. According to the Commission, the purpose of the present proposal is threefold:

— to extend the scope of Directive 93/75/EEC (as amended by Directive 96/39/EC) to cover the carriage of irradiated nuclear fuel, plutonium and high-level radioactive waste in flasks on board ships. To achieve this, mention of the INF Code [2] of IMO (Resolution A. 748(18) adopted on 4 November 1993) is to be expressly included in the list of international texts mentioned in article 2;

— to supplement the information given in the annexes to the directive in the light of developments in international legislation;

— to facilitate the amendment of those annexes in the light of developments in international legislation by applying the committee procedure.

2. The Commission document

2.1. To overcome the lack of special provisions regarding the carriage by sea of certain radioactive materials, the General Assembly of the International Maritime Organization (IMO) adopted, on 4 November 1993, a Resolution A.748(18), known as INF Code.

2.1.1. In Resolution A.790(19), the General Assembly of the IMO decided to consider whether a revised version of the INF Code should take account of certain complementary and operational aspects.

2.1.2. Directive 93/75/EEC of 13 September 1993 could not take into account the INF Code as it was only adopted one month and a half later. Thus, for the sake of completeness, and in view of its objectives, the INF Code should be included in the list of international legal texts referred to in Article 2 of the Directive.

2.2. In Annex I, Directive 93/75/EEC lists the information which must be notified to the competent authorities. Annex II sets out the checklist of information, safety equipment and documents which the ship's captain must make available to the pilot upon embarkation.

2.2.1. It is proposed to include in Annexes I and II a reference to the IMO identification number. It is also proposed to supplement Annex II by including safety equipment and certificates referred to in a number of international instruments, including the rules governing the Global Maritime Distress and Safety System (GMDSS).

2.3. To provide easier procedures for allowing the annexes to take account of developments in international legislation, it is proposed to expand Article 11 of Directive 93/75/EEC in order to permit further amendments of these annexes in light of relevant developments in international law on safety at sea and on the protection of the marine environment in accordance with the procedure provided for in Article 12.

3. General Comments

3.1. In line with opinions expressed previously, and in particular those in its Opinion on the Communication on a Common Policy for Safety at Sea [3], the Committee welcomes the present draft directive.

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(1) Commission Directive 96/39/EC of 19 June 1996 amending Council Directive 93/75/EEC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods (OJ No L 196, 7. 8. 1996, p. 7).

(2) Resolution A.748(18) concerning the code for the safe carriage of irradiated nuclear fuel, plutonium and high-level radioactive wastes in flasks on board ships (INF Code).

(3) Communication from the Commission on a common policy on safe seas (COM(93) 66 final). ESC opinion: OJ No C 34, 2. 2. 1994, p. 47.

3.2. Although certain requirements concerning carriage of radioactive materials were already covered in the IMDG Code [1], the General Assembly of the IMO, through Resolution A.748(18), the INF Code, has listed the requirements to the design and equipment of the ships that transport such materials.

3.3. The Committee is of the opinion that carriage of radioactive materials by sea is increasing and the position of EU Member States regarding that transport is very important. It fully justifies the introduction of a reference to the INF Code in Article 2 of Directive 93/75/EEC.

3.3.1. The Committee is also of the opinion that due consideration should be given to the application of Directive 93/75/EEC, as modified by the present Directive, not only to vessels bound for or leaving Community ports, or staying at anchor in territorial waters of an EU Member State, but also to all vessels in transit in those territorial waters.

3.4. The allocation of an IMO number to every passenger ship with a gross tonnage of 100 gt and above, and to all cargo ships of 300 gt and above, is a positive measure that allows a ship to be traced independently of the changes of owners that may occur. The mention of that number in Annexes I and II of the Directive is also welcome.

3.5. The adoption of the committee procedure makes it easier to follow the evolution of international legislation. In terms of safety at sea and marine environment protection this evolution is currently very fast. Thus, it seems that the inclusion of a supplementary sentence in Article 11 of the Directive is relevant.

4. Specific Comments

4.1. *Article 1*

4.1.1. In the text, after 'proposed to be added to paragraph (c)' it would be better to replace 'and' and 'defined' by 'including' and 'described'.

4.1.2. In paragraph 2, the expression 'international law' should be replaced by 'international conventions, codes and resolutions'.

4.2. *Annex II, paragraph C*

4.2.1. In the checklist to be given to the pilot as set out in Annex II, paragraph C, several certificates and other documents are not correctly mentioned. The whole list should be revised in order to use the adequate IMO expression.

4.2.2. Clear IMO references should be added after the mention of a required certificate or information.

[1] International Maritime Dangerous Goods Code, a Resolution of the Assembly of IMO adopted on 6 November 1991, as Resolution A.716(17).

Brussels, 26 February 1997.

The President

of the Economic and Social Committee

Tom JENKINS

Opinion of the Economic and Social Committee on the 'Proposal for a Council Decision on the promotion of sustainable and safe mobility'

(97/C 133/05)

On 14 February 1997, the Council decided to consult the Economic and Social Committee, under Article 198 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 12 February 1997. The rapporteur was Mr Konz.

At its 343rd plenary session (meeting of 26 February 1997) the Economic and Social Committee adopted the following opinion by 94 votes to one with two abstentions.

1. Introduction

1.1. As it already proposed in Communication SEC (94) 1106 submitted to the Council and Parliament on 6 July 1994, the Commission would like to lay down once and for all a legal basis for budget heading B2-704, since spending under this heading has regularly exceeded the ECU 5 million ceiling since 1993.

1.1.1. The purpose of this budget heading is to provide the Commission with funds for co-financing the Community strategy for guaranteeing the safe and sustainable mobility of people and goods, as set out in the Commission's Communication on the future development of the common transport policy (COM(92) 494 final).

1.1.2. The European Parliament, the Economic and Social Committee and — last but not least — the Council have commented favourably on the main features of this blueprint.

1.2. At the same time the Commission would like budget heading B2-702 (transport safety) to be reviewed, since the procedures for granting subsidies under this heading are very similar to those applicable to B2-704.

1.3. The bulk of the expenditure under these two headings is for specific measures 'implemented as a preliminary step to a statutory Commission initiative or necessitated by the Commission's obligation to exercise its role as guardian of the Treaty'.

1.3.1. In the application of Community legislation in the field of transport the Commission is often called upon, inter alia, to exercise a special supervisory role in a particular area. These specific measures, taken in isolation, cannot be regarded as significant actions and to this extent do not require or call for a special legal basis. The same is true of pilot projects.

1.4. Nonetheless, the Commission's proposal for a Council decision is aimed at significant actions which the Commission would like to implement 'with a view to establishing and developing the common transport policy and promoting transport safety'.

1.4.1. The proposal accordingly concerns only a part of the funds deployed by the budgetary authority each year under the two budgetary headings.

1.4.2. The measures listed by the Commission mainly concern 'clearly identifiable but highly diverse operations conducted by third parties' (more often than not public and/or private international organizations) with the declared object of making a major contribution to the achievement of the Community's objectives in the field of transport or publicizing these objectives more widely.

1.4.3. As a rule the funding of these activities takes the form of subsidies previously agreed on which do not exceed 50 % of the project's total costs.

1.4.4. Other actions may be conducted directly and exclusively by the Commission.

2. General considerations

2.1. The Economic and Social Committee agrees with the Commission that it is necessary to establish a legal basis for the Community budget for the development of the CTP and especially for the establishment and development of a common sustainable transport policy (budget heading B2-704) and for transport safety (heading B2-702).

2.2. So far the funds available under these two headings have been used for measures in need of support without the Council having approved a legal basis for this.

The Economic and Social Committee thinks that the proposed Council decision should prompt the Commission to make more intensive and purposeful use of the funds made available by the Parliament so that the

problems associated with the transport of goods and people are solved as quickly as possible [1].

2.3. The Economic and Social Committee thinks that it is vital for the Commission to be provided with the requisite funds and the legal basis for implementing the measures listed in Articles 2 and 3 of the proposal.

It is also in the general interest for the Commission to be able to collect authoritative evidence by commissioning studies and analyses from independent experts.

2.4. The Economic and Social Committee welcomes the binding provision contained in Article 4 stipulating that each final payment is to be preceded by a detailed check on the services provided, taking into account the contractual obligations entered into by the beneficiary and the principles of basic economics and sound financial management.

3. Concluding comment

The Economic and Social Committee eagerly awaits the first Commission report due out in 2001 on the use made of the appropriations and the evaluation of their contribution towards the achievement of the objectives pursued by the Community (cf. Article 6 of the proposal).

Brussels, 26 February 1997.

The President

of the Economic and Social Committee

Tom JENKINS

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[1] Cf in particular the ESC opinions on:
- the Green Paper — Towards fair and efficient pricing in transport (OJ No C 56, 24. 2. 1997, p. 31);
- the Green Paper on the impact of transport on the environment (OJ No C 313, 30. 11. 1992, p. 18);
- the application of telematics systems to intermodal transport in a pan-European context (OJ No C 66, 3. 3. 1997, p. 27);
- the Green Paper on the citizens' network (OJ No C 212, 27. 7. 1996, p. 77);
- the trans-European transport network (OJ No C 397, 31. 12. 1996, p. 23);
- the interoperability of the European high-speed train network (OJ No C 397, 31. 12. 1994, p. 23).

Opinion of the Economic and Social Committee on the 'Communication from the Commission: Inventing tomorrow — Europe's research at the service of its people'

(97/C 133/06)

On 5 September 1996 the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Union, on the 'Communication from the Commission: Inventing tomorrow — Europe's research at the service of its people'.

The Section for Energy, Nuclear Questions and Research, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 February 1997. The rapporteur was Mr Bernabei.

At its 343rd plenary session (meeting of 26 February 1997) the Economic and Social Committee adopted the following opinion by 97 votes to one with two abstentions.

1. Recommendation of the Economic and Social Committee

The Committee

having regard to

1.1. the Commission's preliminary guidelines for the Fifth Framework Programme [1], initial Member State reactions and recent statements by the European Parliament, IRDAC, ESTA and the European Science Foundation, highlighting the strengths and weaknesses of European research, already alluded to in assessments of earlier framework programmes;

1.2. European research's positive contribution towards incorporating the scientific community, creating more than 100 000 corporate link-ups, and to progress in various leading-edge sectors;

1.3. the globalization of the market place, and the gathering pace of innovation giving instant, widespread access to new technologies, and the ensuing rapid obsolescence of same;

1.4. the lack of a commonly-shared strategy within a framework consistent with other Community policies, to enable the Community to rise to the challenge posed by its main competitors via joint research efforts and a faster transition from research to innovation to the market;

1.5. the serious weaknesses of European research as regards efficiency, participation, time to market, and technological cohesion;

1.6. the increasing complexity in the implementation of Community research policy, caused by the accession of new Member States and the mushrooming of decision-making procedures;

1.7. European research expenditure, equal to 2 % of GDP, and allocated as follows: 9 % to non-Community European research policies; 4 % to the framework programme and 87 % allocated independently by the Member States;

1.8. the ensuing need to undertake a major reappraisal of the framework programme's linear research model; this appraisal will bring out the general lack of coordination and strategic scenarios and highlight the unfeasibility of continuing with scatter gun measures, particularly in view of future EU enlargement and limited national and Community finances;

1.9. the need to provide adequate solutions to citizens' needs in terms of employment, quality of life and the competitiveness of the European system;

recommends

1.10. a major search for innovative proposals capable of mustering the support and political will of all those involved in research around medium- long-term strategic objectives;

1.11. a new philosophy rooted in an integrated system which prevents scattering of limited resources by creating synergies between European research, Community research and major RTD projects where Member States consider joint action important;

[1] COM(96) 332, 10. 7. 1996 and COM(96)595, 20. 11. 1996.

1.12. going beyond cosmetic changes in the Community framework programme, which leaves its basic shape, management procedures, decision-making procedures and arrangements unchanged;

1.13. full implementation of Title XV of the Treaty on European Union, with particular regard to Articles 130k, 130l and 130n as an integral part of the framework programme;

1.14. a thorough overhaul of European research as regards framing strategic scenarios, identifying priorities, new structures, greater flexibility, improved access, clearer assignment of responsibilities and assessment of results, with improved management, simplified procedures and more efficient back-up arrangements;

1.15. the development of a financial/tax environment conducive to intangible investment in research and training;

and calls for

1.16. the immediate implementation of a European technology and industrial assessment mechanism, with a network for the systematic exchange of standardized information relevant to EU research and technological innovation, and basic figures which give a concise overview of the measures adopted by individual Member States and by the European Union;

1.17. the use of a bottom-up approach, based on these scenarios, in defining priority areas and concentrating on areas in which Community research makes a substantial contribution towards solving the problems of society, industry and individuals referred to in point 6.12.2.

1.18. future framework programmes to have a pyramid structure, with horizontal actions at the base, cross-sector research and cross technology problem-solving at the centre, and, at the apex, major, 'open variable geometry' priority projects, of strategic interest for European competitiveness, employment and social affairs;

1.19. coherence of the entire research action via an integrated approach to promote, in each individual research project, interaction with important strategic issues and horizontal actions;

1.20. Community competition policy to be made compatible with the international competitive objectives of technological innovation, skewing it towards a 'goal-based' approach rather than simply conforming with rules;

1.21. the promotion of important strategic projects by implementing the provisions of Articles 130k, 130l and 130n, and providing a proper legal and institutional framework, a guaranteed, declared system of incentives, arrangements for the protection of industrial property in a package to guarantee geopolitical economic balance and cohesion;

1.22. the definition of a limited number of problem-solving areas, to provide improved streamlining and target common priorities linked with major strategic projects, thus providing new coherence for existing specific programmes and a whole range of research work, speeding up application of results and raising the public profile of Community added value;

1.23. horizontal actions to be considered as a common pool of resources with an automatic tie-up with major common projects and 'problem solving' work, thus providing a systematic link between SMEs and Community RTD work via a one-stop access procedure. The same relationship should be achieved between the academic world, the scientific community and industry, via human-resource exchange programmes; and with the outside world through international cooperation;

1.24. all levels of research to include instruments to encourage demonstration as an integral part of the research-innovation-market sequence;

1.25. better coordination of European research with non-Community European cooperation vehicles and with Structural Fund support for innovation, and with other Community instruments for education and training policy, cooperation and external relations, especially Tacis, Phare and MEDA;

1.26. a thorough overhaul of the Commission's internal organization, setting up inter alia units for coordination within the research structure and with other schemes;

1.27. the activation of more flexible, simple and transparent access and management procedures, with three uniform procedures for the three levels of action in the pyramid. In particular, a one-stop access procedure must be provided for each of the three horizontal actions, together with back-up measures to pave the way for proposals targeting priority areas within 'problem solving' research work and/or major projects of common interest;

1.28. increased funding for Community research, thus providing a secure financial future for multiyear

programmes, and for other policies with an R&D strand;

1.29. a more rational use of framework programme funds, which will provide a critical mass for the apex of the pyramid, greater flexibility as to the level of Community participation in 'problem solving' research activities — as required under the GATT agreements — and allocation of a bigger share of aggregate funding to horizontal actions.

2. Introduction

2.1. Each of the four successive framework programmes has marked a decisive step forward in Community research. The objectives have been progressively sharpened and the resources available have been substantially increased; in financial terms the annual budget has grown from ECU 380 million in 1981 to ECU 3 200 million in 1996.

2.2. The Council and European Parliament decision that doubled the resources of the fourth framework programme compared with its predecessor could not have been adopted if a sizeable majority of research protagonists and clients, and indeed public opinion had not been convinced of the efficiency of the Community's research system.

2.3. With the definition of an outline for the fifth framework programme imminent, in view of the formal presentation of its proposals scheduled for March/April 1997, the Commission has presented some preliminary reflections in two recent communications: 'Inventing tomorrow: Europe's research at the service of its people' [1] and 'Towards the Fifth Framework Programme: additional material for the policy debate' [2].

2.4. At the same time the Member States started an internal debate to formulate their own respective positions. The European Parliament has also adopted a report on research in the 21st century. Similarly, IRDAC, ESTA and the European Science Foundation have produced studies on the subject.

2.5. A comparative reading of all these documents brings to light a degree of consensus on the strengths and weaknesses of European research. These strengths and weaknesses remain much as they were identified in the documents analyzing the previous Commission framework programmes. The Committee has itself repeatedly stressed [3] the need for a complete rejig of European research procedures in order to bring them into line with the changes in competition and the global marketplace.

2.6. These analyses do not, therefore, come up with much that had not already been pointed out – many years ago in some cases – about the failings of the Community's main strategic instrument for European RTD, the Framework Programme, except insofar as it has been realized that it is no longer possible to put off a revision in order to increase the European added value through a system at the service of European citizens, common strategic planning, and more effective and transparent procedures for definition, access and management.

3. The strengths of Community research

3.1. European research has encouraged the integration of the European scientific community and hence — within its budgetary constraints — helped boost the Community's industrial competitiveness.

3.2. Over the years, increasing participation in European research programmes by businesses, research centres and end-users in different Community countries has led to more than 100 000 link-ups being established in Europe, many of which have subsequently developed into business partnerships.

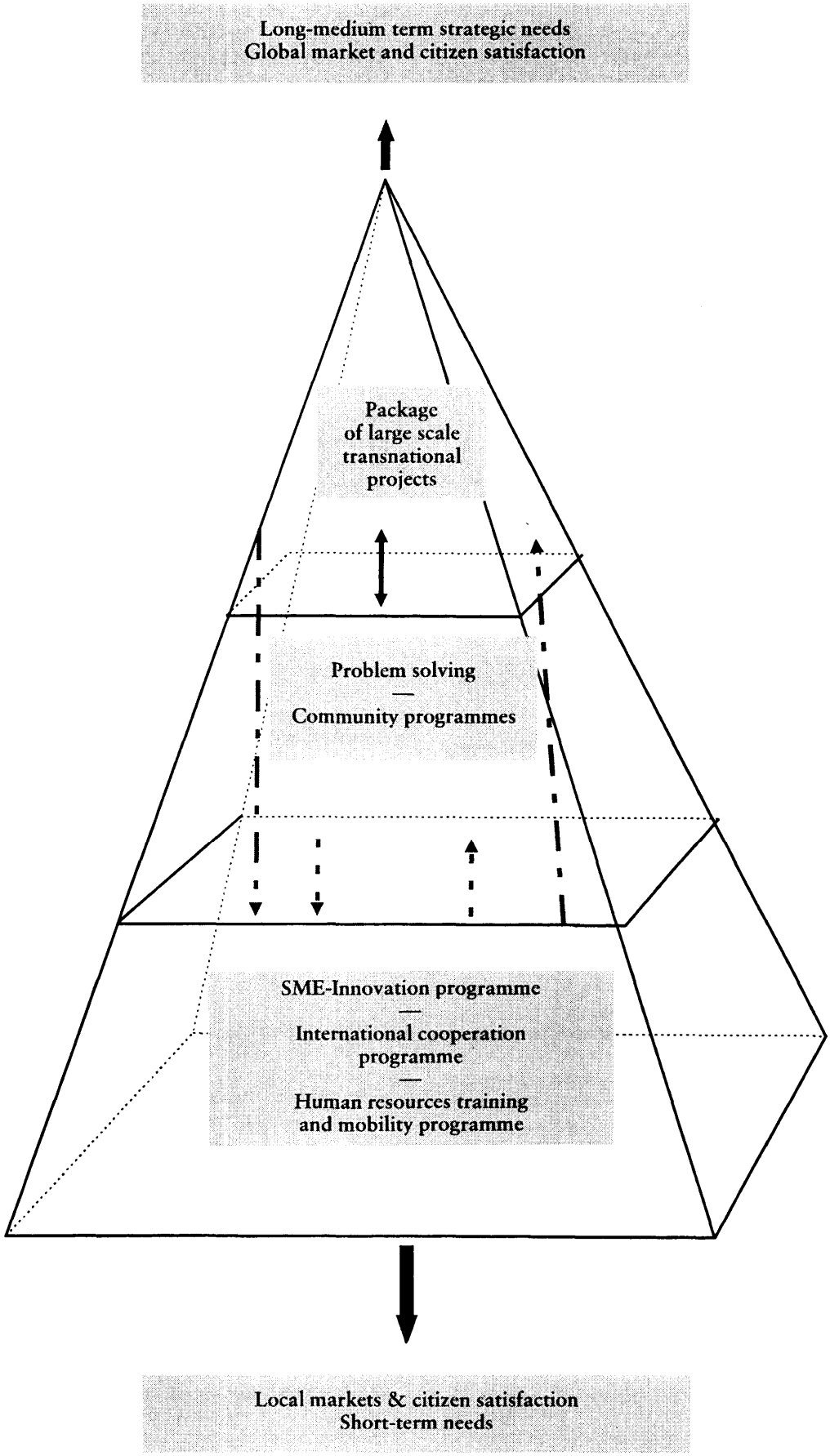
3.3. Undeniable achievements in certain key areas, such as the sequencing of the yeast genome, parallel processors, telecommunications standards, and the first nuclear fusion experiments, have borne out the enormous potential of research projects which combine European scientific excellence with tightly targeted funding.

3.4. European research has contributed significantly in framing EU technical standards conducive to the development of compatible systems and in providing greater scope for joint projects.

4. Its weaknesses

4.1. Decision-making: The EU has grown from ten to fifteen members and decision-making procedures for

[1] COM(96) 332, 10. 7. 1996.
[2] COM(96) 595, 20. 11. 1996.
[3] OJ No C 18, 22. 1. 1996 on the coordination of RTD policies and OJ No C 212, 22. 7. 1996 on the proposal for a second amendment to Decision 1110/94 on the framework programme for research, technological development and demonstration actions (1994-1998) (COM(96) 12).


Long-medium term strategic needs
Global market and citizen satisfaction
Package of large scale transnational projects
Problem solving
—
Community programmes
SME-Innovation programme
—
International cooperation programme
—
Human resources training and mobility programme
Local markets & citizen satisfaction
Short-term needs

the framework programmes have proliferated accordingly: there are currently four — the co-decision procedure for the adoption of the framework programme, the consultation procedure for the approval of specific programmes, the cooperation procedure to determine the rules for participation and the procedures laid down under Articles 130k, 130l and 130n of the EU Treaty. This complexity leads to inefficiency and delays and the implementation of research policy is held back. The Commission's annual internal budget procedure, a perennial source of inter-institutional conflict, is a further complication. Advantage should be taken of the IGC to simplify this mechanism, by reducing the number of procedures, without prejudice to transparency or democracy.

4.2. Coordination between RTD and other Community policies and between Community and national RTD policies is inadequate; there is a lack of integration which would minimize duplication of work and promote pooling of the resources and structural and scientific skills required in order to form the critical mass which is a prerequisite to keep the system on a par with its major competitors.

4.3. The use of technologies to achieve the major strategic objective which meet the needs of citizens, industry and society, requires greater resources in order to ensure that Community level intervention reaches a threshold of effectiveness; the costs of demonstration are generally ten times greater than those of research.

4.4. Subsidiarity: The lack of adequate mechanisms to frame basic strategical scenarios to guide the coordination and targeting of European and national research work on goals which presuppose a systematic collective effort has made it difficult to implement the subsidiarity principle fully and hence calculate and give a sufficiently high profile to European added value. Indeed, the pump-priming mechanisms of the framework programme are ineffective unless, when the market requires it, they can raise significant additional resources at the various levels of subsidiarity, well above and beyond the 50 % figure for financial co-participation. In essence, subsidiarity and coordination are two faces of the same coin.

4.5. Efficiency: Community research has seen rampant growth in the number of sectors for intervention and the ossification of the linear process resulting in programmes becoming self-perpetuating. This accentuates the tendency for programmes to be too broad and inflexible, and to extend their scope. Another defect is the failure to rationalize bureaucratic and compartmentalized management structures, aggravated by the lack of fast and systematic exchange of information which would ensure interoperability, transparency and visibility. The management techniques used for the specific programmes have not been updated and remain essentially unaltered since the days of the second framework programme, while spending and the number of projects has tripled. Administrative and staffing expenditure has thus spiralled, reaching 7 % of the total research budget.

4.6. Participation: The complicated procedures governing access to Community research have made it difficult for businesses (especially SMEs) and end-users to increase their level of participation and thereby ensure that research activities are targeted on innovations that match society's need for new products and processes. However, small businesses, and particularly microenterprises, are a vital support for sustainable growth and employment, in both niche production sectors and 'classic' sectors. In certain sectors a very small proportion of the proposed projects is selected for funding, and even high quality projects suffer rejection. This has effectively led to a massive increase in the cost of preparing proposals compared with the eventual expenditure on accepted projects.

4.7. Time to market: The innovation 'paradox' is demonstrated by the discrepancy that exists between Europe's scientific potential and its performance in terms of innovation. Scientific results and technological achievements take far longer to be transformed into industrial and commercial successes than in competing countries where pressure for a return on the investment means that innovation hits the market place more rapidly. Figures for Triad patents registered in different technological sectors highlight Japan's dominance in advanced technologies, the strength and influence of the USA across the board and, conversely, the growing importance of traditional sectors in Europe, where patenting costs are much higher.

4.8. Concerning the technological cohesion of the European system, the geographical remoteness of the less-favoured regions is compounded by the lack of structures and infrastructures connected to the rest of the EU network, and by technology gaps which are even bigger than the social and economic disparities. The absence of synergies between the framework programmes and the RTD structural funds makes it more

difficult for individuals from these regions to take part in Community research programmes, and they could end up missing out on the development trend.

4.9. The employment situation in the Community, the indicators of relative competitiveness, the prospect of enlargement from 15 to 25 countries and the state of national finances vis-à-vis the Maastricht criteria, and hence that of the Community as a whole, do not leave much scope for scatter-gun, uncoordinated, untargeted intervention, with access that is so rigid, compartmentalized and opaque that it frequently discourages entrepreneurs (particularly SMEs) from participating in research which has real prospects for innovation. In conclusion, we do not have a common strategy, coherent with other Community policies, which is capable of providing an effective response to Europe's major competitors in terms of common research effort (3 % of GDP for Japan, 2,5 % for the USA, 2 % for the EU) and in terms of accelerating the research-innovation-market process. At the moment, the European innovation 'paradox' operates wholly to the disadvantage of our continent.

4.10. There is a particular need to encourage company-based research. This requires tax and a financial environment that favours intangible investment, in order to increase the proportion of GDP dedicated to company-funded investment in research, as is currently the case in the US. European weakness in this field is borne out by the fact that the share of GDP devoted to company research, save for a few sectors, e.g. chemicals and pharmaceuticals, is on average less than 38 % of the corresponding figure for the USA and less than 55 % of that for Japan.

5. The changed international context

5.1. It is now universally acknowledged that withstanding international competition and responding to citizens' needs hinge on the most effective use being made of resources allocated to RTD.

5.2. This factor has now become critical in maintaining and strengthening capacity for economic development and employment growth against a backdrop of two closely linked phenomena: the globalization of markets and the near-instantaneous spread of the new technologies which are the major driving force behind globalization and the acceleration of innovation.

5.3. Europe invests a lower proportion of its financial resources (expressed as a proportion of GDP) in RTD than the USA or Japan, and the number of Japanese researchers as a percentage of the population is nearly double that in Europe. This disadvantage is aggravated by two further handicaps. Failure to coordinate research programmes and strategies at every level has resulted in duplication of work and impeded the pooling of resources. Compartmentalization into 15 different national RTD systems means that globalization is less a feature of the EU's single market than outside it. A wholehearted innovation culture must be developed, with training schemes which encourage people to take advantage of the opportunities provided by the framework programmes, by making access procedures more user-friendly.

5.4. In this context a major reappraisal of the linear research model used for the framework programme seems necessary. This update should aim inter alia to concentrate human and financial resources on shared objectives based on European-level strategic planning, and to provide mechanisms for rapid and widespread use of research results right from the earliest stages of RTD programmes.

6. Towards the fifth framework programme

'Europe does not exist to provide something to hide behind'

Jacques Delors, 3. 12. 1996

6.1. Given the current limitations on resources and the present mechanisms that encourage further fragmentation, it is necessary to either:

— scale back the ambitious aims of the framework programme, leaving it solely as a vehicle for promoting networking between those involved in Community research, with adjustments to its management and procedures that will improve the mechanisms for diffusion and exploitation of research results, or

— create a system which focuses national, European and Community endeavours on binding, jointly approved strategies for raising the overall standard of European research and speeding up the transition from research to innovation to the market.

6.2. Objectives disproportionate to the resources and instruments available, and to the real political will to achieve them, could provoke disaffection or even hostility towards a system perceived as inefficient, opaque and showing no signs of contributing to employment or the quality of life, despite the investment of what to European citizens are very large sums at a time

when they are acutely conscious of the need for careful financial management and of the sacrifices that they are being called on to make for the sake of strengthening the EU.

6.3. Furthermore, the failure to come up with economic or commercial successes and real answers to citizens' needs (in terms of new products and job creation) will burden future generations with an ungovernable employment technological and economic deterioration.

6.4. It is therefore necessary to launch a major search for innovative proposals capable of harnessing the support and political will of all those involved in research around medium- long-term objectives.

6.5. It is not enough to simply 'window-dress' the framework programme, leaving unchanged its basic shape, management procedures, decision-making procedures and mechanisms.

6.6. It is necessary to act decisively and propose procedural solutions which ensure that Treaty articles 130k, 130l and 130n are genuinely used to integrate national, Community and European research. Otherwise, EU RTD activity will be relegated to a mere extra source for revenue, as an alternative or in competition with national sources. This will erode the value added by Community RTD.

6.7. This does not mean abandoning the subsidiarity principle, or changing the balance of power between the different levels. However, given the current situation, citizens' requirements must be met through innovative and much enhanced interaction and integration between national, European and Community work, all funded by those citizens.

6.8. It is thus imperative that European research should be reorganized in terms of strategic planning, identification of priorities, a new structure, greater flexibility, wider accessibility, simplified procedures and more effective support mechanisms.

6.9. Failure to redefine the mechanisms of the framework programme with a view to a realistic European research policy based on a common competition strategy, means an ever-growing risk of a gradual diminution or even elimination of Community action in key sectors of the development of Europe's economy and employment.

6.10. *European added value for competitiveness and employment in a system at the service of citizens*

6.10.1. While the framework for research policy set out in Titles XIII and XV of the Treaty on European Union stands, objectives, structures and methods need to be updated to make them competitive with those of America and Japan. Major synergies between public and private research are being generated continent-wide by the major American programmes SEMATECH (Consortium on semiconductor technology), TRP (Technology reinvestment project), CRADAs (Cooperative research and development agreements), MEP (Manufacturing Extension Programme), ATP (Advanced Technology Project), and SBIR (Small Business Investment in Research). In Japan, where public investment in research expanded 7 % in 1996, the Science and Technology Council has launched a ten year basic plan for medium- and long-term scientific and technological research focused on a range of common objectives.

6.10.2. A new philosophy of research in Europe is thus needed; although the subsidiarity principle must be respected it should not be a barrier between Community and national policies.

6.10.3. This new philosophy needs to be rooted in a vehicle which prevents scattering of limited resources by creating synergies between European research, Community research and major national RTD projects where Member States consider joint action important. This would mean that all research activity would be channelled towards common strategic objectives, while in accordance with the subsidiarity principle its implementation would be carried out at the most appropriate level. On the basis of this new philosophy all RTD activity, at whatever level, would have to be conceived and carried out within a European dimension.

6.10.4. A European-level strategy and shared aims are a prerequisite for maintaining a competitive edge in advanced technologies which can make a positive contribution to job creation and the satisfaction of citizens' needs.

6.11. *Common strategic planning*

6.11.1. Community forecasting work is currently entirely based on indicators supplied by national sources or by other international bodies such as the OECD. The

EU has no system for exchanging information relevant to research and technical innovation in a standardized form, to underpin transparent, fast and effective strategic planning so as to facilitate common decision-making at business, regional, national and Community level.

6.11.2. It is necessary to set clear, visible objectives, enjoying across-the-board support, for resolving the problems of citizens, industry and society, viz.: quality of life, health and the environment; the information society, multimedia education and training; sustainable development and a boost to job creation; industrial competitiveness; advanced energy systems; sustainable mobility and intermodality; people-friendliness and advanced infrastructure of the urban environment, rural and coastal areas; the factory of the future; technological cohesion in terms of investment and innovation; protection of our architectural and cultural heritage.

6.11.3. European-level technology and industrial assessment procedures should therefore be set up, along with a network for the systematic exchange of standardized information relevant to EU research and technical innovation, and trend charts similar to those used by the European Employment Observatory, which would give a overall view at any given time of the measures taken in each Member State and at Community level, enabling systematic comparisons to be made.

6.11.4. Such planning would be indispensable for the subsequent preparation of a truly competitive Community RTD strategy, devised as a framework recommended to, rather than imposed on, those involved in technological development and innovation.

6.11.5. The involvement of all the national bodies in such planning would not [sic] make it easier to reach a consensus on Community RTD priorities, which would encapsulate the real added value of European involvement.

6.12. *Identification of priorities*

6.12.1. As the Commission document recognizes, greater care needs to be taken when areas for priority treatment are chosen, 'concentrating on those areas where Community research can play a decisive role'. However, until now, the selection of research subjects has been a top-down process, with citizens and those actually involved in research sometimes only peripherally involved.

6.12.2. It would be more appropriate for the EU to provide the bare bones of the system, with those involved in research in both public and private sectors given the task of selecting the key areas for research on which Community, national and private resources should be concentrated, on the basis of available technological forecasts and taking account of pre-set criteria including priorities for industrial and social objectives and cohesion.

7. **The new structure**

7.1. When considering the real scope for new structures for the framework programmes attention should be given to the obligations and opportunities offered by the Treaty, particularly in Titles XV (Research and technological development) and XIII (Industry).

7.2. As regards obligations, the Treaty on European Union calls for the complete integration of research and development policy with all other Community policies, with the primary objective of strengthening the scientific and technological bases of the Community industry-services complex to sharpen its competitive edge at international level and make the fullest use of the opportunities offered by the single market. In particular, Community competition policy needs to be reworked to make it more compatible with the aim of improving international competitiveness through technological progress and innovation, putting greater stress on 'goal-based' attitudes than on simply complying with rules.

7.3. The integration of national and Community policies is laid down in Article 130g, with particular reference to programmes promoting cooperation with and between undertakings, research centres and universities, international cooperation, the dissemination and optimization of results, and the stimulation of the training and mobility of researchers.

7.4. Article 130h calls for coordination between national and Community policies, while Articles 130k, 130l and 130n outline as yet untapped opportunities for supplementary programmes, joint undertakings and Community participation in research programmes undertaken by several Member States.

7.5. Given these obligations and opportunities, it seems to be time to choose a new vector-based structure for Community research that will bring together all levels of European, national and regional research to work towards common priorities, thus finally ensuring that the Treaty is applied effectively and consistently.

7.6. European research spending is running at 2 % of GDP. Of this total, 9 % goes to non-Community European level initiatives and 4 % to the Framework Programme; the remaining sum is allotted independently

at national level. This new structure should enhance the role of Community research as a catalyst for closer integration of national and European RTD.

7.7. This new model for the framework programme could be drawn up as a vectorial pyramid:

7.7.1. Three horizontal activities would form the base:

— support for innovation and technological demonstration, and the promotion of SME involvement in research work;

— involvement of participants from areas bordering the EU in Community research projects;

— training and researcher mobility, particularly between industry and academia, promoting a strong European identity.

7.7.2. The emphasis should be on cross-sector and cross-technology research, which maintains some continuity with the actions set up under the current framework programme, but allows a stronger focus on priority problem-solving areas, avoiding the current situation where Community research is fragmented into a multitude of specific programmes which often overlap but rarely interact.

7.7.3. The apex would consist of major projects on priority subjects which are of strategic interest for European competitiveness, employment and social affairs. These would be 'open variable geometry' affairs, in that they would involve the Community and whichever Member States wished to take part in projects to preserve economic and social cohesion, under the terms and provisions indicated by the Committee in its earlier Opinion on research policy coordination [1].

7.8. In order to move from the downbeat European innovation 'paradox' towards positive achievement in economic, commercial, and employment terms, the market and the satisfaction of citizens' requirements needs to be built into the highest and lowest levels of the pyramid. At the apex, the major projects of common interest need to be developed from the bottom up, involving all the players in the research-innovation-market process within the sectors chosen as major strategic objectives at Community level. The projects that form the base of the pyramid need to provide mechanisms for the rapid transformation of research results into commercial successes, reducing the delays, costs and risks involved.

7.8.1. The coherence of the entire research action must be ensured through an integrated focus on aspects of relevance to the major strategic themes and on horizontal actions, which harness international, demonstration, innovative and human-resources dimensions to the Community's major strategic choices.

7.8.2. Progress could be made towards such an objective by awarding 'compatibility premiums' for those national projects which operate broad functional synergies with the common European strategy.

7.9. *The apex of the pyramid: the major strategic projects*

7.9.1. This new structure could be a concrete answer to the Commission's general guidelines. If research is to be targeted more closely on the market and hence meet the needs of the citizen and create jobs, the prerequisites are concentration and coordination. It would thus seem appropriate to establish synergies between procedures under the current framework programme and the variable geometry schemes mooted in Articles 130k, 130l and 130n, as well as to provide for link-up with the COST and Eureka programmes, allowing for interaction with Member States and the research community as a whole, with the focus on priority objectives which are strongly market-oriented from the outset.

7.9.2. The feared marginalization of those Member States that have limited research capacity in certain sunrise industries, which lies behind the strong resistance to the establishment of Commission task forces, could be overcome by sharing out various of the major strategic projects to ensure geopolitical and economic balance within the scope of the procedure proposed earlier by the Committee in its 1995 opinion on the coordination or research policy.

7.9.2.1. Furthermore, Community financial co-participation would guarantee open and impartial (at least as far as the Community element is concerned) access to research activities for businesses, research centres and universities of all Member States. The option of carrying out major strategic research projects at Community level could also be encouraged by competition rules which treat it as a necessary condition for complete compatibility with Community standards.

[1] Cf. note 3, p. 14.

7.9.3. Some examples of concentration and coordination, such as the fusion sector, exist, but the harmonization of research strategies is the outcome more of a political calculation than of any systematic practice. Coordination should instead spring from an updated strategic system which will enable the all European research to be targeted on major projects with common objectives of those Member States that are interested enough to direct a significant proportion of their national research towards the challenges of global competition within a unified framework.

7.9.4. Concentration and coordination, by multiplying and bringing together financial and human resources both inside and outside the Framework Programme can achieve a critical mass of coherent actions, capable of reaching the major objectives of quality, innovation and technical excellence set for research policy under the Treaty.

7.9.5. In order to trigger the mechanisms defined in Treaty articles 130k, l and n the Community would have to provide an adequate legal and institutional framework and a guaranteed and declared system of incentives to simplify the identification of common themes, provide exemptions from Community competition law, define the context for industrial property protection and commit the resources required to start projects in the form of feasibility studies and coordination structures both within and outside the framework programme.

7.10. *The centre of the pyramid: cross-sectoral areas and inter-technology problem solving*

7.10.1. In each of the areas of technology into which the framework programme would be divided, increased rationalization and targeting on common priorities linked with major projects of strategic importance could provide a new coherence to the whole range of research work, speed up application of results and help give Community activity a higher profile, for instance in terms of European added value.

7.10.2. Indeed, 'problem-solving' technologies can be applied in many sectors and consequently provide solutions for a wide range of users, though they need to be underpinned by adequate basic and general research into issues of relevance to future conduct of economic and social initiatives. They can thus gain very wide distribution, and enhance the competitiveness of the entire industrial system. Instead of being dedicated to a comprehensive series of specific subject areas, the centre of the pyramid would serve as an open space for multi-disciplinary research into the problems faced by society, businesses and the citizen. This would allow continuity of application with the fourth framework programme, but with more room for bottom-up mechanisms and for breaking down the barriers between different subjects.

7.10.3. The needed connection between the major strategic projects and the 'problem-solving' research fields could be provided through a matrix-based system offering multidisciplinary and interactive links between the individual projects and the Community's major research options.

7.11. *The base of the pyramid: the horizontal activities*

7.11.1. The horizontal activities should be seen as a common pool of resources with automatic links and synergies with the major joint projects and problem-solving work.

7.11.2. Such systematic linking must enable a close bottom-up relationship between SMEs and Community RTD work with a one-stop procedure. The same relationship should be achieved between the academic world and public and private scientific research on one hand and on the other both industry (through human resource exchange programmes), and the outside world (through international cooperation).

7.11.3. In particular, participation by SMEs and human capital in problem-solving research targeted on the Community's strategic objectives will ensure a link with the major projects at the apex of the pyramid, thus helping to guide innovation towards satisfying society's future needs.

7.11.4. The need for a single market in innovation — an indispensable and intrinsic element of the European internal market — brings with it a need to adopt a horizontal programme for SMEs and innovation, taking on board the recommendations contained in the Committee Opinion on the Green Paper on innovation [1], that takes an integrated approach to research conception, management and evaluation and is subject to a Commission ad hoc coordination unit [2]. Such an integrated approach must use automated mechanisms to activate structural fund intervention in support of innovation (Article 10 of the ERDF Regulation), the SME, Adapt and Leader II initiatives, and national and regional structural assistance. The recent establishment of a new European stock exchange for small growth-enterprises

[1] Opinion on the Green Paper on innovation, OJ No C 212, 22. 7. 1996.

[2] Opinion on the Financial Supplement to the Fourth Framework Programme, OJ No C 212, 22. 7. 1996.

(EASDAQ) could also serve to accelerate the innovation process, by simplifying access to venture capital.

7.11.5. Equally, there is a need to activate the international dimension of innovation via closer interaction with the schemes for cooperation with Europe outside the Community, particularly COST and Eureka, given that during the ten year life-span of the latter the average size of projects has been massively reduced; the major strategic projects have all but vanished, while at the same time participation by SMEs has grown sharply [1].

7.11.6. To stimulate active participation and the acceptance of new technologies by those — both companies and end-users — involved in the innovation process, it would be worth incorporating mechanisms for fostering demonstration at all levels of research; such demonstration is a vital element in the process of moving from research to innovation to the market.

7.11.6.1. Similarly, it is necessary to cover the organizational, management, marketing, financial and legal aspects (including the protection of industrial and intellectual property) of research, in order to shorten the 'time to market' of research findings.

7.11.7. The confirmation of the international role of European research, in conjunction with the phenomenon of globalization, could make a real contribution in bringing together and further involving the EU's neighbouring areas, thus helping the CEEC in their moves towards EU membership and the Mediterranean countries to form a large free trade area. In particular, a research programme targeted on the major technological aims of European competitiveness would enable the production and marketing sectors in these countries to be brought up to the level of those in the EU, thus aiding integration.

7.11.8. Furthermore, given that two thirds of innovations and scientific discoveries originate outside the EU, and that the expanding markets which enable new products to be produced commercially are mainly outside Europe, there is a need to develop interaction between European innovation activities and international cooperation initiatives and to integrate actions supporting Community research and innovation projects into the Community's cooperation programmes such as Tacis, Phare and MEDA within the scope of precise strategies targeted on each important regions (Eastern Europe, the Mediterranean, Latin America and Asia). These should be consistent, visible and have mutual benefits, and should be defined with full participation by industrial end-users from both areas.

7.11.9. Moreover, the establishment of a strong community of highly qualified scientists from the academic world and industry — particularly SMEs — will require a trainee/researcher statute [2] to be created, in order to facilitate mobility in experience-swapping networks. Encouragement should be given to laboratory networking and technology-dissemination centres — for reasons including cohesion — in order to lay the foundations for the medium- to long-term competitiveness of the European system as a whole. Here the Committee would mention the Commission's Green Paper on education - training - research: obstacles to transnational mobility, which is currently the subject of an ESC opinion. Intangible investment in both research and training is vital if we are to focus on Man as the key player in development.

7.12. *More flexible and transparent procedures*

7.12.1. For the purpose of tailoring research work more closely to the future development of technological and scientific knowledge, more flexible and transparent access and management procedures are needed. Specifically, the need for simplification and transparency means that there should be a standard procedure for each of the three layers of the pyramid.

7.12.2. The current arrangements for problem-solving research are split up between various Commission Directorates-General, each with its own procedures for the presentation of proposals, negotiation of contracts and implementation of those accepted. A more uniform and centralized approach might allow a considerable saving in human and financial resource terms for participants who are frequently obliged to split cross-sector projects up in order to present them under different specific programmes.

7.12.3. It seems clear that the internal structure of the Commission's RTD departments needs to be changed radically to make it compatible with the vector-based strategy and the integrated approach. Such a reform could also help to rationalize and clarify the Community message, and make it more transparent.

7.12.4. As far as the horizontal actions at the base of the pyramid are concerned, this might be an appropriate juncture to rationalize the current procedures by setting up one-stop access for each of the three areas and support machinery which will help steer proposals

[1] Cf. Eureka Evaluation Report — 1995, p. 8.

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

towards the appropriate high priority areas of problem-solving research and/or major projects of common interest which have a favourable legal and financial situation.

7.12.5. It could be appropriate to draw up common criteria for the selection of the major European projects under a package deal so that they take account of the need to boost European industrial competitiveness, promote economic and social cohesion and offer clear prospects for rapid economic recovery and an upturn in employment.

7.12.6. To this end declarations of intention must be drawn up for each individual major strategic project, to be signed by the Member States, the Commission and all other public and private bodies involved and submitted for political endorsement after discussion among the Member States, the Commission and the European Parliament.

7.12.7. Under the heading of coordination procedures, the reduction to three or four problem-solving areas and to the three horizontal programmes should lead to a reduction in the numbers of programme committees and open up greater scope for interaction between these and CREST without weighing down research with yet more management and bureaucracy. In particular, representatives of CREST and the committees for the horizontal programmes should automatically sit on the committees for the problem-solving areas.

7.12.8. There is, moreover, a need for coordination units, for interconnections within the vector-based research structure and between the latter and other relevant policies and instruments of the Community. These should serve as 'facilitators', paving the way for synergies in financial, legal, fiscal, management and operational procedures at Community and national level.

Brussels, 26 February 1997.

8. Finance

8.1. The Committee has repeatedly endorsed the case for allotting greater financial resources to Community research under the common budget, stressing that research and technological innovation are a key factor in sustainable development, job prospects and the international competitiveness of the EU. It is thus vital that the financial perspective for the fifth framework programme should be established as early as possible in order to give a level of certainty to the multi-annual programming and enable the allocation of funds to the maximum levels set by the Edinburgh agreements, i.e. two thirds of Title III (internal policies) of the appropriate financial perspective.

8.2. At the same time, an adequate financial perspective needs to be ensured regarding Community resources allocated to other policies with a significant research and development component.

8.3. When considering the allocation of resources, the apex of the pyramid will require a sufficient proportion of the available funds, since this would have a knock-on effect, activating a sum between five and six times greater.

8.4. The budget for the 'problem-solving' fields should be managed with tried and tested mechanisms, but taking advantage of the scope offered by the GATT agreement to increase the upward flexibility of Community participation, particularly in areas regarding innovation and demonstration.

8.5. The horizontal programmes should receive a higher proportion of total common resources than at present. In this instance there would have to be varying levels of Community participation, taking account of the strategic impact of innovation and demonstration, particularly for SMEs, the constraints imposed by social and economic cohesion, and the other instruments that could be brought into use in this matter. Moreover, SMEs must be fully involved in 'problem solving' work.

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) introducing arrangements for the management of fishing effort in the Baltic Sea'

(97/C 133/07)

On 10 January 1997 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 6 February 1997. The rapporteur was Mr Kallio.

At its 343rd plenary session of 26 and 27 February 1997 (meeting of 26 February), the Economic and Social Committee adopted the following opinion by 95 votes, with no dissenting votes and four abstentions.

1. Commission proposal

1.1. Under the Act of Accession of Austria, Finland and Sweden, provision is made for arrangements governing access to the waters specified in the Act. These arrangements will continue to apply during a transitional period ending on the date of implementation of the Community fishing permit system and not later than 31 December 2002.

1.2. The aim is to introduce a system for the management of fishing effort in the areas of the Baltic Sea falling under the sovereignty or within the jurisdiction of the Member States with effect from 1 January 1998, whereupon the transitional period will terminate.

1.3. Under these arrangements, Member States are required to carry out a posteriori monitoring of the fishing effort deployed by Community vessels in the Baltic Sea. This monitoring is to be effected through the issue of special fishing permits by the Member States. The permits will authorize access to waters and will facilitate the regulation of fishing effort and the collection of data on fishing effort by Community vessels.

1.4. The Council will continue to set total allowable catches for the various species and allocate quotas in accordance with Article 8(4) of Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture. The Council may set new levels for fishing effort in accordance with the procedure laid down in the regulation.

2. General comments

2.1. The condition of stocks in the Baltic Sea fisheries is fairly good. However, Member States and other countries in the Baltic region have large fleet capacities in the Baltic Sea.

2.2. Fishing activities in the Baltic Sea have been subject to common rules since 1974 under the auspices of the International Baltic Sea Fishery Commission (IBSFC), and a common approach should be retained in any further regulation of fishing effort in the Baltic Sea.

2.3. The Committee would point out that the Commission proposal is based on the principles of the Community system of special fishing permits.

2.4. In the view of the Committee, the Commission should ensure that the introduction of the system of special fishing permits does not lead to overfishing of stocks of the target species in the Baltic Sea. In addition, the Commission should provide Member States with guidance and advice regarding the application of the special permit system and the collection of data.

2.5. The Committee feels that the Commission should, when deciding on new levels for fishing effort, take into account the principles laid down in the United Nations Convention on the Law of the Sea as well as scientific data on the need to regulate fish stocks in the Baltic Sea.

2.6. The Commission should promote research on the estimation of catches at different levels of fishing effort for the various species in cooperation with the IBSFC and the International Council for the Exploration of the Sea (ICES).

3. Specific comments

3.1. In the view of the Committee, the Commission should work together with the IBSFC and the ICES to ensure that all countries which fish in the Baltic Sea introduce the system of special fishing permits at the same time and at the earliest possible opportunity.

3.2. The Committee proposes that Article 5 be amended to read as follows:

> '.... acting in accordance with Article 8(4) of Regulation (EEC) No 3760/92 and the procedure laid down therein ....'

3.3. The Committee would underline that all vessels engaging in fishing activities in the Baltic Sea must adopt the new levels for fishing effort as provided for in Article 5 at the same time.

3.4. The Committee endorses the proposal that the Regulation apply to vessels of more than 15 metres between perpendiculars.

Brussels, 26 February 1997.

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 1442/88 on the granting, for the 1988/1989-1997/1998 wine years, of permanent abandonment premiums in respect of wine-growing areas'

(97/C 133/08)

On 30 January 1997, 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 6 February 1997. The rapporteur was Mr Quevedo Rojo.

At its 343rd plenary session (meeting of 26 February 1997), the Economic and Social Committee adopted the following opinion by 93 votes to three, with five abstentions.

Having taken note of some Member States' delay in designating the regions to benefit from the permanent abandonment premiums in respect of wine-growing areas pursuant to the terms of Council Regulation (EC) No 1595/96 of 30 July 1996, amending the basic Council Regulation No 1442/88 of 24 May 1988, the Committee approves the Commission proposal to extend the time limit (31 December 1996) fixed for eligible producers to submit applications to the authorities designated by the Member States.

Such a measure would seem to be necessary in order not to jeopardize (i) premium payments for 1996/97 and (ii) the success of an instrument that aims to help achieve market balance in the wine-growing sector.

Brussels, 26 February 1997.

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 93/113/EC concerning the use and marketing of enzymes, micro-organisms and their preparations in animal nutrition'

(97/C 133/09)

On 14 February 1997 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 6 February 1997. The rapporteur was Mr Colombo.

At its 343rd plenary session (meeting of 26 February 1997), the Economic and Social Committee adopted the following opinion by 96 votes to three with two abstentions.

The Committee notes the large number of applications submitted to the Commission by Member States by 1 January 1996, as required under Directive 93/113/EC of 14 December 1993, concerning the provisional use and marketing of enzymes, micro-organisms and their preparations in animal nutrition.

This is a delicate matter, and the Committee shares the Commission's concerns regarding the difficulty in making the requisite careful and thorough examination of such a large number of files. In the case of many of the files, further information has also had to be submitted within the twelve-month period laid down in Article 5 of the Directive (1 January 1996-1 January 1997).

The Committee therefore approves the Commission proposal to postpone until 1 January 1998 the date by which a decision will have to be taken on whether the products in question comply with the conditions laid down in Directive 70/524/EEC of 23 November 1970 as regards safety of use and effectiveness for authorization as an additive. However, such postponements should not become established practice.

Brussels, 26 February 1997.

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 Council Regulation (EEC) No 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin'

(97/C 133/10)

On 19 December 1996 the Council decided to consult the Economic and Social Committee, under Article 43 of the Treaty establishing the European Union, 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, set up a study group and appointed Mr Colombo rapporteur.

At its 343rd plenary session (meeting of 26 February 1997) the Economic and Social Committee appointed Mr Colombo as rapporteur-general and adopted the following opinion by 77 votes to two, with two abstentions.

The Committee notes that the amendments in question concern various procedural aspects and deadlines. Each will be considered in detail. Given the urgency as a result of the legal void which has been created, the Committee has adopted an opinion on the procedural aspects and deadlines contained in the proposal, and will return to the substantial issues raised subsequently as soon as the Commission formulates new proposals.

1. Introduction

1.1. The aim of Council Regulation 2377/90 [1] is to:

— prevent maximum residue limits from hindering the free movements of veterinary medicinal products and foodstuffs within the European Union;

— protect public health.

1.2. Since 1 January 1992 it has not been possible to authorize the placing of a veterinary medicinal product on the market unless a maximum residue limit has been established beforehand.

1.3. Maximum residue limits were to have been established by 1 January 1997 for substances whose use was authorized earlier than 1992.

1.4. Pursuant to the regulation, the Commission firstly took note of the scientific opinion of the Committee for Veterinary Medicinal Products (CVMP), and, in accordance with the procedure of the Regulatory Committee, adopted a legally binding decision classifying 282 substances into the four annexes to the regulation, namely:

— Annex I, substances for which a maximum residue level may be fixed;

— Annex II, substances not subject to maximum residue levels;

— Annex III, substances for which a provisional limit is set in the absence of the scientific data needed;

— Annex IV, substances of which any quantity poses a health risk to the consumer.

2. The need to update the procedure

2.1. The primary motivation behind the proposed amendment is to bring the procedure for determining maximum residue levels into line with the radical changes to Community procedures introduced under Regulation 2309/93 [2] and Council Directives 93/40/CEE [3] and 93/41/CEE [4].

2.2. These measures laid down Community procedures for the authorization and supervision of medicinal products for human and veterinary use and established the European Agency for the Evaluation of Medicinal Products.

2.3. The CVMP is thus now answerable to the Agency, whose responsibilities include that of issuing an opinion on the maximum residue limits of veterinary medicinal products which are acceptable in foodstuffs of animal origin.

2.4. The decision-making process thus needs to be brought into line with the so-called centralized procedure established under Regulation 2309/93.

2.5. The procedure further needs to be adapted to enable the Community to meet its obligations under the Agreements on the application of sanitary and phytosanitary measures which emerged from the multilateral negotiations of the Uruguay Round, approved by the European Court by Council Decision 94/800/EEC [5]

[1] OJ No L 224, 18. 8. 1990, p. 1.

[2] OJ No L 214, 24. 8. 1993, p. 1.
[3] OJ No L 214, 24. 8. 1993, p. 31.
[4] OJ No L 214, 24. 8. 1993, p. 40.
[5] OJ No L 336, 23. 12. 1994.

of 22 December 1994. To meet the obligation for transparency, it is necessary to introduce reasonable periods for consulting members of the World Trade Organization.

2.6. The Committee considers that the proposed amendments to Articles 7, 8 10 and 12 are appropriate to the new legal framework for medicinal products and the Community's international obligations.

3. **The need to extend the deadline for the review of substances already in use**

3.1. While continuing as planned for new substances, the Commission is requesting that the deadline for the evaluation of substances already in use on and submitted to EMEA by 1 January 1996 should be extended to 1 January 1999.

3.2. The reasons behind this request are:

a) The delayed start to the Agency's work at its London base, which started operations only on 1 January 1995.

b) The difficulties encountered by the industry in collecting the data necessary to establish dossiers and by the national authority in evaluating them.

c) The large number of products to be submitted for evaluation by the Agency and the time this is likely to take, as detailed in the table on page 6 of the proposal.

d) The lengthening of the time required for administration as a result of consultation requirements arising from international agreements.

e) The impossibility of speeding up the process without compromising the transparency required for trade in medicinal products. Correct and scientifically rigorous procedures must be followed; this is an absolute requirement for consumer safety.

3.3. Given the rate at which substances already in use are being examined, and the fact that over 200 remain to be dealt with, the Committee is obliged to approve the extension laid down in the first and second paragraphs of Article 14.

3.4. The Committee does not however consider two years to be sufficient, given the time required for in-depth examination, which is essential to consumer and animal health protection and if the practice of repeated extensions is not to continue. This is partly on the basis of the data gathered by the European Agency for the Evaluation of Medicinal Products. The Committee proposes that the deadline be set definitively for 1 January 2000, with no possibility of extension.

3.5. Under no circumstances should this lengthening of the extension be taken as a pretext for slowing down work. In this regard, the Committee is concerned to note that the Member States have not so far been in a position to provide adequate funding and staff for the revision work, and that this is one of the causes of the delays which have occurred. It therefore feels that if the new deadlines are to be met in the interest of consumer protection and the availability and movement of veterinary medicines, the question of optimizing national and European-level financial and human resources must be considered as a matter of urgency.

3.6. While noting that new dossiers for substances already in use cannot be lodged, the Committee recommends adopting a procedure allowing the Agency to examine those substances already submitted during the course of 1996 and which are of particular therapeutic importance.

4. **Establishment of maximum residue limits for substances undergoing clinical trials**

4.1. A further aspect of the proposed amendments is the matter of animals used in clinical trials of medicinal products.

4.2. Article 4(2) of Directive 81/851/EEC[1] lays down that foodstuffs for human consumption may not be taken from test animals unless maximum residue limits have been established and an appropriate withdrawal period allowed. Thus, as from 1 January 1997, unless a maximum residue limit is established before the clinical trial is carried out, foodstuffs from the animals used, and possibly the animals themselves, would have to be destroyed.

4.3. The Commission proposes the addition of a new Article 4(a) to the existing regulation allowing a provisional maximum limit to be set, along with a suitable waiting period, not to exceed two years.

4.4. The regulation would also be supplemented by an ad hoc Annex III(a), which would include all the substances undergoing clinical trials together with their provisional maximum residue levels and appropriate time periods, in order to ensure the protection of the consumer.

4.5. Since the Committee considers that consumer protection is already provided at national level by the rules under Directive 93/40/EEC and by the good clinical practices laid down in Directive 92/18/EEC, it does not

[1] OJ No L 317, 6. 11. 1981, p. 1.

believe that establishing a provisional MRL will enhance consumer safety, on account of the lack of available data in the first phase of clinical trials. This view is strengthened by the reservations expressed in this regard by the CVMP which is shortly to adopt a document containing alternative proposals for submission to the Commission.

4.6. Consequently, the Committee does not accept the addition of a new Article 4(a) or of the third paragraph of Article 14, and calls upon the Commission to draft a new proposal reflecting the CVMP guidelines so as to reconcile consumer safety with the need to avoid the destruction of animals used for trials wherever possible.

Brussels, 26 February 1997.

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) supplementing Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs to include livestock production'

(97/C 133/11)

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 6 February 1997. The rapporteur was Mr Jan Olsson.

At its 343rd plenary session (meeting of 26 February 1997) the Economic and Social Committee adopted the following opinion by 88 votes to two, with 17 abstentions.

1. General comments

1.1. Whilst the Committee welcomes the Commission proposal to introduce common rules on organic livestock production, it notes that the proposal is long overdue. The result is that the European consumer has had to grapple with increasingly perplexing national rules.

1.2. Organic production has been increasing as a result of a growth in demand, but with marked differences in the various Member States. This new market also attracts cowboy producers and distributors.

1.3. In view of the above, the Committee believes there is a need to boost consumer confidence in organic products as well as to encourage environmental practices in agriculture in general.

1.4. When a consumer buys organic livestock products, he is, above all, making a conscious decision to back natural-cycle production methods, in which finite resources are exploited as effectively and as carefully as possible. Organic production should therefore be able to spearhead development towards a society which prioritizes cyclical principles and sustainable consumption.

1.5. Another very important reason why many consumers choose organic products is ethical concern over animal health and welfare.

1.6. If organic production is to win the confidence of consumers, it must fulfil certain clear, consistent criteria, throughout the Member States, and arrangements for monitoring these criteria must be reliable.

1.7. Consumers are particularly attracted by the idea of having a wider range of organic products at acceptable

prices. Organically grown food should not be just a niche product for a few consumers; all citizens should be able to put organic fare on their dining table.

1.8. The Committee would therefore point out that a regulation on organic farming should not put unreasonable obstacles — in terms of regulations and cost — in the way of farmers who wish to convert to organic farming methods. Section 2 suggests ways of removing some of these obstacles.

1.9. The Committee notes that in many respects the provisions of the proposed regulation are far too general, and do not differ from the rules and good practice applied to conventional methods.

1.10. If the rules governing organic production are too general and imprecise, the impact of the regulation will be weakened.

1.11. At the same time, the Committee feels that the regulation in some places goes into excessive detail (e.g. the rules on minimum age for slaughter).

1.12. The Committee would therefore suggest that the regulation and its annexes should confine themselves to establishing the minimum requirements which distinguish organic production and which must be respected for produce to be marketed as 'organic'. These requirements are specified in section 2.

1.13. The Committee does, however, realize that the large regional variations within the EU regarding natural conditions and climate, together with differences between different species of animal, make complete harmonization impossible. A certain degree of flexibility must therefore be provided for, to enable Member States to introduce national provisions which do not clash with the basic requirements for organic production, and without leading to distortion of competition. The national certification authorities should comply with EC standards 45011 and 45012.

1.14. The Committee believes that rules based on these variations must be decided by national inspection authorities, in cooperation with the relevant producer organizations, inspection authorities and consumer representatives. The decision should then be referred to the Commission and the Member States for possible objections, in which case the provisions of Article 14 of Regulation 2092/91 would apply.

1.15. A revision of the regulation to take on board the above principles would be a step towards a welcome simplification of EU agricultural regulations, and would increase awareness and confidence amongst consumers and the general public. Moreover, a simplification based on clear criteria would make it easier for the EU to conclude an international agreement on trade in organic produce which would be acceptable to both producers and consumers, and would secure a level playing field for both imported and Community produce.

2. Specific comments

In the light of the above, the Committee feels that the preamble and annex should only contain the basic requirements which are a feature of organic production, and establish the criteria for national derogations. General statements which also apply to conventional production but are not legally binding can be deleted from the draft regulation.

2.1. *General principles*

2.1.1. The Committee feels that this subheading should, first of all, establish a number of basic requirements which organic production must fulfil, thereby indicating the features which distinguish it from conventional production.

2.1.2. The Committee considers these basic requirements to be the following:

— animals must be fed principally with organically farmed vegetable produce;

— animals must enjoy the freedom of movement and living conditions needed to satisfy their natural requirements;

— sick animals must be given allopathic treatment, given that this is consistent with normal animal care and legislation on animal protection;

— the number of animals per unit of area must be limited in order to avoid all forms of pollution, and to comply with the nitrates directive's ceiling of 2 units of cattle per hectare. National inspection authorities must be able to set a lower stocking density than the directive's nitrogen ceiling demands (170 kg N/ha);

— organic stockfarmers who are unable to produce all their own feed or who do not have enough acreage for effluent spreading, must work in cooperation with other organic farmers within a reasonable area, in order to maintain a complete organic farming cycle;

— embryo transfers, the use of synthetic substances to stimulate growth and genetic engineering shall be forbidden;

— genetically engineered substances shall be forbidden in organically produced fodder and processed foods;

— conventional stockfarming within the same production unit can only be permitted during the conversion period, and must be completely separate from organic stockfarming. The conversion period may last for five years at the most, so that it does not become too costly for the farmer;

— animal mutilation shall only be permitted as a means of improving the health, welfare and/or hygiene of the livestock, and of ensuring human safety. National inspection authorities shall have the power to authorize castration and de-horning, where certain types of production require this;

— organically reared livestock must be identifiable in the slaughterhouse; the marking system recently proposed by the EU Commission will make this easier. The animal's identity must be discernible on the various parts of the carcass, so that the processing industry can use raw materials in the production of composite organic produce.

2.2. *Origin of the animals*

2.2.1. The Committee broadly endorses the proposed 10 % ceiling on conventionally-reared, young female livestock which may be brought into an existing herd or flock. However, in exceptional cases only, the inspection authorities must have the option to raise this to a maximum of 30 %, in order to provide for quicker growth in organic production, which fulfils the requirements set out in the Commission proposal.

2.2.2. The Committee agrees with the Commission's proposals on bringing conventionally-reared pullets, chicks, calves, piglets and bees into organic livestock holdings, but considers that the transitional period must be extended until 31 December 2005.

2.3. *Conversion periods*

2.3.1. The Committee believes that it should be possible to use meadows and fodder crops undergoing conversion to organic farming methods as fodder for livestock on livestock holdings undergoing conversion.

2.3.2. This means that the agricultural holding will be able to convert its livestock and crops at one and the same time.

2.3.3. This would also require regular monitoring of the conversion period itself.

2.3.4. It is the Committee's view that the conversion period for crop production should be fixed at one year. The national inspection authorities already have the option to do this, but a clearly established one-year ceiling would clarify the rules, and, not least, do away with the need for a consumer-unfriendly labelling system during the conversion period.

2.4. *Feed*

2.4.1. Whilst the key principle of the proposal is that an agricultural holding should produce its own animal feed, the Committee feels that geography and climate should be given special consideration, so as to allow for the transport of organic feed, and for it to be exchanged — commercially or otherwise — between agricultural holdings.

2.4.2. The Committee calls for the minimum intake of organic feed to be raised to 70 % per day, with a 90 % minimum yearly average.

2.4.3. The Committee endorses the Commission proposal to raise the minimum percentage of roughage in feedingstuffs to 60 %, but feels that the national inspection authorities should be allowed to authorize a 50 % minimum should production requirements demand.

2.4.4. The annexes to the regulation contain lists of other feedingstuffs, permissible feed supplements and other products allowed in organic livestock farming.

2.4.5. Experience has shown that it is a complicated procedure to draw up and amend inclusive lists of this kind. It hinders the development of new products, and the lists do not pay sufficient attention to the different climates and traditions in individual regions.

2.4.6. In some regions, the dictates of the climate are such that, in order to achieve sustainable organic production, the option must be available to use feed preservatives such as formic and propionic acid. This derogation could be accepted provided that the Member States apply the procedure suggested by the Committee in point 1.14.

2.4.7. In the Committee's view, permission should be given for the use of feedingstuffs which provide pigs and fowl with an adequate source of animal proteins, in a form natural to these species. Alternatively, the use of synthetic amino-acids should be permitted: this would reduce nitrogen leakage in the surrounding environment,

since less acreage is needed to grow protein-rich crops. Organic feedingstuffs of animal origin must be labelled.

2.4.8. The Committee feels that the Commission should in the first instance draw up more precise criteria on the requirements that animal feed and other feed supplements need to fulfil for inclusion in the list of other feedingstuffs. The procedure advocated in point 1.14 could provide cover for the special conditions relating to certain regions and certain species of animal.

2.5. *Disease prevention and veterinary treatment*

2.5.1. The Committee endorses the Commission's proposed ban on allopathic preventive treatment, but feels that veterinary authorities should be able to make exceptions to protect the health of a whole herd and avert life-threatening epidemics.

2.5.2. The Committee would emphasize that sick animals must receive adequate treatment under veterinary control, in accordance with existing regulations on animal protection.

2.5.3. The Committee agrees with the Commission's proposal that the qualifying period after treatment with synthetic drugs should be twice as long as for conventional production.

In the Committee's view, where treatment is administered more than twice a year, it should not be possible to sell the products as 'organic', and the relevant inspection bodies should investigate the causes of the disease and ensure that the farmer sees to it that the causes are remedied.

2.5.4. The regulation bans the use of substances to stimulate growth. The Committee would emphasize that this ban must, of necessity, apply to all herds/flocks regardless of species.

2.5.5. No substances other than formic acid should be permitted in apiculture.

2.6. *Livestock housing, free-range areas, etc.*

It is the Committee's view that the Commission proposal on livestock housing, free-range areas and storage facilities for livestock effluents and silage liquor, provides an appropriate general framework. Housing conditions have an important influence on meat quality, and the organic label requires high standards. However, in view of the climatic and other differences from one country to another, the Member States must be given a degree of flexibility, without leading to distortion of competition.

Brussels, 26 February 1997.

The President

of the Economic and Social Committee

Tom JENKINS

APPENDIX

to the opinion of the Economic and Social Committee

The following amendments were defeated during the debate:

Point 2.1.2, first indent:

Replace with the following:

'— herbivores must be fed, as early as possible, solely on organically farmed plant produce;'

Reason

The current wording might not provide an adequate guarantee for the consumer.

Result of the vote

For: 33, against: 39, abstentions: 17.

Point 2.1.2, fourth indent

Replace 'in order to avoid all forms of pollution' with 'in order to reduce pollution'.

Reason

It is not always possible to avoid pollution, but it can be reduced.

Result of the vote

For: 31, against: 40, abstentions: 18.

Opinion of the Economic and Social Committee on the 'Proposal for a Council Directive on the burden of proof in cases of discrimination based on sex'

(97/C 133/12)

On 17 October 1996, the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community and Article 2(2) of the Protocol (No 14) on social policy, on the above-mentioned proposal.

The Section for Social, Family, Educational and Cultural Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 13 February 1997. The rapporteur was Mrs Sigmund.

At its 343rd plenary session (meeting of 26 February 1997), the Economic and Social Committee adopted the following opinion by 103 votes to 13, with 26 abstentions.

1. Introduction

1.1. For twenty years now, the European Community has played an important role in promoting equal rights for women in society. Acting under Article 119 of the Treaty, which stipulates that men and women should receive equal pay for equal work, the Community first of all enshrined in law the principle of equality at work and in wide-ranging areas of social security. In addition, the Council has adopted six directives, two recommendations and ten resolutions on equal opportunities and equal treatment regardless of sex.

1.2. Despite this comprehensive legal framework, however, equal treatment and equal opportunities are still not guaranteed fully. The fundamental guarantees enshrined in Community legislation are all too often undermined by practical administrative problems encountered by the victims of discrimination, who are, moreover, frequently unaware of their rights.

1.3. As early as 25 May 1988, the Commission tabled a draft Council Directive on the burden of proof in the area of equal pay and equal treatment for women and men [1].

The ESC opinion of 27 October 1988 endorsed the Commission's draft and highlighted the ongoing relevance of calls for equal opportunities for women which had already been voiced in the 1986-1990 action programme published on 24 April 1986.

The draft directive was discussed on a number of occasions in the Council between 1988 and 1994 and required several revisions before securing more extensive support. Finally, on 23 November 1993, eleven of the then twelve Member States meeting in Council, reached agreement on a significantly modified version of the draft directive; this directive, however, failed to elicit the unanimity required under Articles 100 and 235 of the EEC Treaty.

In January 1994, the European Parliament adopted a resolution on the White Paper on European social policy, calling on the Commission to submit a new draft directive. On 5 July 1995, the Commission gave its approval for the social partners to be consulted on a text outlining the Commission's initiatives and proposals on the burden of proof.

Two hearings were held and the unanimous view was that the correct application of Community legislation on equal opportunities for men and women was extremely important.

However, the social partners expressed no wish to see an agreement concluded under Article 4 of the agreement on social policy.

All this led to the proposal under discussion, i.e. the draft Council Directive on the burden of proof in cases of discrimination based on sex [2] which the Commission submitted on 17 July 1996.

2. General comments

2.1. The Committee broadly welcomes the Commission initiative. It also shares the Commission's view that Community action is needed to uphold and enforce the principle of equal treatment.

2.2. The ESC feels that gender equality, as a basic principle of justice, must become a reality in practice. It therefore backs all measures which seek to remove the difficulties faced by plaintiffs.

2.3. The Committee does not, however, agree with the Commission (in its statement in the explanatory memorandum) that the proposed arrangement will not

[1] OJ No C 176, 5. 7. 1988.

[2] COM(96) 340 final.

impose any administrative constraints on the creation, maintenance and development of SMEs.

In many cases, claims are only raised long after the alleged incident took place. In particular, small and medium-sized industrial and commercial establishments, craftsmen, members of the professions and farmers could, under certain circumstances, find it difficult, or well-nigh impossible, to deliver the burden of proof. The limited scale of their activities means it is not essential to keep records of organizational mechanisms or work cycles. Conversely, an obligation to keep documentation would, in certain circumstances, constitute an unjustifiable increase in red tape and an unacceptable additional cost.

Despite these misgivings, the Committee would stress that the directive, which it broadly backs, also applies wholly and unreservedly to SMEs.

Moreover, the Committee trusts that the Commission will take appropriate action to ensure that this fact is taken into consideration in its programmes designed to establish, maintain and promote SMEs. For reasons of legal certainty, such considerations can obviously not be taken into account in applying the future directive.

2.4. The directive is designed to apply to all situations covered by existing Community instruments on gender-specific discrimination, except where the application of this directive is expressly excluded. Unless Member States have decided otherwise, the directive will not apply to criminal proceedings.

2.5. The directive deals with the following three topics:

— definition of indirect discrimination (Article 2);

— burden of proof (Article 4);

— procedures (Article 5).

3. Specific comments

3.1. *Indirect discrimination* (Article 2)

3.1.1. Up to now, Community law has come up with no definition of the term 'indirect discrimination', and the relevant directives have merely used the term without defining it. As things stand, only Ireland, Italy and the United Kingdom have defined the term in law.

3.1.2. Over the past few years, however, the European Court of Justice has shaped a largely uniform and clear legal definition, which states that indirect discrimination is deemed to obtain when an apparently neutral criterion disproportionately disadvantages the members of one sex.

3.1.3. The Commission's definition follows this approach. The Committee welcomes the draft directive's definition of 'indirect discrimination' in line with the criteria laid down by the European Court of Justice, since it enhances legal security; it also highlights the term, thus giving it added weight. This definition should make it easier for national authorities to decide independently in each case whether indirect discrimination has taken place.

3.1.4. The Committee feels that the reference to marital or family status is to be understood by way of example: however, the term 'particularly' used in the directive could, under certain circumstances, be misunderstood. The Committee therefore proposes replacing 'particularly' by 'for example'.

3.2. *Burden of proof* (Article 4)

3.2.1. Although the Commission clearly states in the recitals to the draft directive that its intention in Article 4(1) is not to reverse the burden of proof, the actual wording of the directive does not wholly bear this out.

3.2.2. The Committee believes that various factors relating to the delivery of proof justify simplifying, clarifying and circumscribing the scope of Article 4.

A good approach here would be, on the one hand to require the employer being sued to cooperate and provide information and on the other to adopt provisions which lay down the conditions that are required to be met for the purpose of determining the proof of discrimination.

3.2.3. The Committee proposes that, to make it easier for the principle of equal treatment to be enforced in law, a clear rule must be established that, as a matter of principle, the plaintiff continues to bear the burden of proof, but that it is enough for the plaintiff to make out a credible case for his or her claim that discrimination based on sex has taken place. This means that, unlike the situation in certain Member States, the courts need not have virtually watertight proof that sex discrimination has taken place — which in practice would make it inordinately difficult to take proceedings in these cases. Rather, there need only be overwhelming probability, in the light of all the facts of the case. In other words, sex discrimination may be deemed to have occurred where there are well-founded indications that a person has been treated improperly. This removes the plaintiff's difficulty in having to supply absolute proof of discrimination before the courts.

In each case, therefore, it is up to the courts in each individual Member State acting in line with national provisions to pass judgement on the claims made.

The Economic and Social Committee feels this to be a balanced arrangement — particularly since it makes it easier for the plaintiff to furnish proof while at the

same time clearly giving the defending employer the opportunity to demonstrate that there has been no discrimination on the grounds of sex.

3.2.4. The Commission recitals clearly state that there is no intention to reverse the burden of proof. The Committee feels, however, that the statements made in point 27 are not reflected in the present wording of Article 4(1).

3.2.5. To ensure the maximum possible clarity, the Committee proposes the following:

3.2.5.1. The heading of Article 4 should be amended to read:

'Proof of discrimination based on sex'

3.2.5.2. The text of Article 4 should read as follows:

' Member States shall ensure the following arrangements are complied with in accordance with their national judicial systems:

a) Where persons, who consider themselves wronged by failure to apply to them the principle of equal treatment, establish before a court or other competent authority, evidence of a fact justifying the presumption of discrimination, the burden of proof shall be transferred to the respondent who must then prove that there has been no contravention of the principle of equal treatment. The plaintiff who has established corroborated evidence of discrimination shall benefit from any doubt that might remain as to the facts of the case.

b) Where the respondent has applied a system or taken a decision lacking transparency, it is up to him or her to prove that the apparent discrimination is due to objective factors unrelated to any discrimination based on sex.

c) The plaintiff does not have to prove the existence of any fault on the part of the defendant to establish that the ban on discrimination based on sex has been infringed.'

3.3. *Procedures* (Article 5)

3.3.1. This article stipulates that the courts and other competent authorities may 'give such directions as are necessary for an effective investigation of any complaint relating to discrimination'. Furthermore, the parties concerned are required to provide information, albeit only under certain conditions.

3.3.2. The Committee seriously doubts whether the Community has a remit to legislate in this area of law, i.e. asks whether the Member States themselves should not be left to decide what arrangements they make under their own national laws (subsidiarity principle). The Committee would urge the Commission to study this matter thoroughly.

If such arrangements are, in fact, inadmissible at European level, the Committee proposes the deletion of Article 5.

Brussels, 26 February 1997.

The President

of the Economic and Social Committee

Tom JENKINS

APPENDIX

to the opinon of the Economic and Social Committee

The following amendments attracted more than 25 % of the votes cast, but were rejected during the course of the deliberations:

Point 3.3.2

Replace both paragraphs of this point by the following:

'The Committee considers it necessary for such measures to be taken so that the directive can be applied in practice. However, it would point out that Article 5 states that the Member States shall guarantee certain procedures but does not specify precisely how this is to be done.'

Reason

Without Article 5 the directive would lose its teeth. Since Article 5 does not regulate how the Member States are to shape their procedures in such court proceedings, there is no need to question the rules on the basis of the subsidiarity principle.

Result of the vote

For: 45, against: 77, abstentions: 9.

Opinion of the Economic and Social Committee on the 'Proposal for a European Parliament and Council Directive amending for the 17th time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations'

(97/C 133/13)

On 7 February 1997 the Council decided to consult the Economic and Social Committee, under Article 100a of the Treaty establishing the European Community on the above-mentioned proposal.

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was responsible for preparing the Committee's work on the subject, appointed a drafting group. The rapporteur was Mr Green.

The Economic and Social Committee decided to appoint Mr Green as rapporteur-general for its opinion. At its 343rd plenary session (meeting of 27 February 1997), the Economic and Social Committee adopted the following opinion unanimously.

1. Background

1.1. The Technical Progress Committee working party on the classification and labelling of dangerous substances and preparations has reviewed all the available data on complex petroleum and coal tar products and has assessed them for their carcinogenicity. The result of the assessment was published in Directive 94/69/EEC [1], the 21st Adaptation to Technical Progress (ATP) of the Dangerous Substances Directive. The 21st ATP introduced a large number of category 1 or 2 carcinogenic/mutagenic/toxic to reproduction (c/m/r) substances into Annex 1 of the Dangerous Substances Directive (67/548/EEC) [2].

1.2. To assist in the assessment, the petroleum and coal tar industries divided the substances listed in the European Inventory of Existing Commercial Chemical Substances (Einecs) into groups of similar substances and the subsequent assessment for carcinogenicity was made on a group basis [3]. To assist further, the presence of known carcinogenic marker substances [4] was used as the criterion for carcinogenicity. Where this was done a specific nota was associated with the classification described in the 21st ATP.

1.3. Although many substances have been classified, this represents only some of the product groups, and of these even fewer are actually sold to the general public. Most of the substances are either for industrial uses or are used as intermediates in other processes. This is the case for both the petroleum and the coal tar products.

1.4. Directive 94/60/EC [5], the 14th amendment to Directive 76/769/EEC [6] relating to restrictions on the marketing and use of certain dangerous substances and preparations, requires that substances classified as c/m/r should be prohibited for sale to the general public. However, it does include an important derogation for petroleum fuels, e.g. gasoline and LPG.

2. The proposal

2.1. The proposed 17th amendment merely introduces those substances classified in the 21st ATP of Directive 67/548/EEC as carcinogenic into the appendix of Directive 76/769/EEC thereby prohibiting their sale to the general public.

2.2. The proposed amendment additionally updates the appendix of Directive 76/769/EEC by also introducing other substances which have been classified as either carcinogenic or mutagenic or toxic to reproduction, since the publication of the 14th amendment.

2.3. The industries responsible for producing the substances included in the proposed 17th amendment have been consulted and have confirmed that they do

[1] OJ No L 381, 31. 12. 1994.
[2] OJ No L 196, 16. 8. 1967.
[3] Example: list of the petroleum substance group:
— Crude oil;
— Petroleum gases;
— Gasolines (7 groups);
— Gas oils (3 groups);
— Heavy Fuel oils;
— Greases;
— Lubricating base oils (3 groups);
— Aromatic extracts (4 groups);
— Waxes & Petrolatum (3 groups);
— Foots oils;
— Refinery gases.
[4] The conditions for classification as carcinogen on the basis of the marker substance are presented in Annex 1 of Directive 67/548/EEC by notas from J to P. See also Appendix to this proposal.
[5] OJ No L 365, 31. 12. 1994.
[6] OJ No L 262, 27. 9. 1976.

not oppose the inclusion of such substances. This is because the carcinogenic substances under consideration (except fuels) are not sold to the general public.

2.4. To protect the health of workers in their workplace, the requirements of the Carcinogens Directive (90/394/EEC) [1] apply to those substances which are classified as carcinogens and are used industrially.

3. General comments

3.1. The Economic and Social Committee approves the Commission proposal to amend for the 17th time Directive 76/769/EEC.

3.2. The Committee especially welcomes the steps being proposed by the Commission at EU community level to protect consumers from exposure to c/m/r substances. These measures are complementary to those already existing with regard to the protection of workers from carcinogenic substances as provided for in the above-mentioned Carcinogens Directive, the full implementation of which is considered essential by the Committee.

3.3. Although the proposed amendment to 76/769/EEC has the effect of preventing c/m/r substances being placed on the market for the general public, the Committee considers that it would be better if the restriction on the sale of such substances would follow automatically after their classification under the requirements of Directive 67/548/EEC.

3.4. In this case, it notes that the use of a committee procedure would help to speed up the process of implementing a restriction on the marketing and use of c/m/r substances, although there would have to be prior consultation of the various socio-economic partners and interests involved.

4. Specific comments

4.1. It is noted that there is a derogation for petroleum derived fuels in the 14th amendment to Directive 76/769/EEC so that, even if they contain c/m/r substances, they will be permitted for sale to the general public provided that they are burned during use. Nevertheless, the Committee urges that steps should be taken to reduce emission of benzene from service stations.

4.2. The Committee noted the vagueness of Nota N which is assigned to certain of the c/m/r substances and advises that the wording of this Nota needs clarification.

[1] OJ No L 196, 26. 7. 1990.

Brussels, 27 February 1997.

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 on the application of open network provision (ONP) to voice telephony and on universal service for telecommunications in a competitive environment'

(97/C 133/14)

On 10 February 1997, the Council decided to consult the Economic and Social Committee, under Article 100a of the Treaty on the above-mentioned proposal.

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, set up a study group and appointed Mr Pé as rapporteur.

At its 343rd plenary session (meeting of 27 February 1997) the Committee appointed Mr Pé as rapporteur-general and adopted the following opinion by 87 votes, with no dissenting votes and two abstentions.

1. The Commission proposal

1.1. The proposal is connected with the updating of the European Parliament and Council Directive 95/62/EC of 13 December 1995 on the application of open network provision (ONP) to voice telephony [1]. Article 32 of the directive provides for a review before 1 January 1998.

1.2. The proposed directive is intended to replace the existing directive 95/62/EC.

1.3. As its title indicates, the main new feature of the proposed directive is the definition of universal service for telecommunications in a competitive environment.

2. General comments

2.1. The Committee opinion of 31 May 1995 [2] noted the following: 'The proposed directive itself is independent of any particular degree of liberalization and leaves it to the individual Member State to notify to the Commission those telecommunications organizations to which the directive shall apply. This in line with the subsidiarity principle; however, depending on the precision of the definition of the scope of ONP, this may lead to some variation in the application of ONP in each Member State'.

2.2. The proposal defines the different types of entities covered and describes the scope of the universal service, thus responding to the views expressed by the ESC in 1990 and 1995.

2.3. In its previous opinions, the ESC referred to the need to define a minimum set of services following the abolition of monopoly [3]. The current definition of universal service for telecommunications covers speech, facsimile and/or data communications and a basic range of facilities, including itemized billing and tone dialling. The ESC, while agreeing with this definition, nevertheless thinks that universal service must not necessarily be mistaken for a minimum service, for that could lead people to believe that only minimum rights are guaranteed in Europe. This would be all the more regrettable given that the proposed directive seeks to define universal service with regard to voice telephony in far more precise terms than before.

2.4. Mobile services should not be fully excluded from the scope of the proposal. A number of provisions — such as the rules governing subscribers' contracts and information services — should apply to mobile and fixed telephone services.

3. Specific comments

3.1. The Committee is pleased to see that Article 3 refers to the need to make universal service available throughout the territory of each Member State. However, the arrangements provided for in the second paragraph of Article 3 could well lead to the distortion of competition. If in some Member States the costs of providing universal service were shared amongst all operators while in other Member States they were supported through the budget, it is clear that the price charged to users would differ. It is important that the

[1] OJ No L 321, 30. 12. 1995, p. 6.
[2] OJ No C 236, 11. 9. 1995, p. 38 (rapporteur: Mr Green).
[3] OJ No C 19, 25. 1. 1993, p. 126 (point 2.2).

present proposal, the future Directive on interconnection [1] and the Commission communication of 27 November 1996 [2] be consistent.

3.2. The ESC is pleased to see that the draft directive, in line with its previous recommendation, covers facilities additional to universal service (Articles 14 and 15 of the draft directive, which are an improvement on Article 9 of the existing directive). However, the ESC would, in the interests of regional development, like the notion of 'reasonable requests' to be clarified [Article 5(1)]. In addition, Article 5 in its present wording makes it obligatory to meet all reasonable requests for connection and requires all fixed network operators to fulfil the same obligations as universal service operators. Newcomers would also be put under this obligation, which represents a heavy and discouraging burden. It is therefore suggested that the following addition be made to the first sentence of Article 5(1):

> '....are met by at least one operator in each part of their territory. They may, if necessary, appoint at least one operator for this purpose.'

3.3. Similarly, the ESC notes with satisfaction that directory services are to be subject to universal service obligations.

3.4. The ESC also welcomes the requirement to provide general access to a single emergency call number (112).

[1] COM(95) 379 final (OJ No C 313, 24. 11. 1995, p. 7); ESC opinion: OJ No C 153, 28. 5. 1996, p. 21.

[2] Commission Communication on assessment criteria for national schemes for the costing and financing of universal service in telecommunications and guidelines for the Member States on operation of such schemes (COM(96) 608).

Brussels, 27 February 1997.

The President

of the Economic and Social Committee

Tom JENKINS

Opinion of the Economic and Social Committee on the 'Green Paper on education, training and research — the obstacles to transnational mobility'

(97/C 133/15)

On 7 October 1996 the Commission decided to consult the Economic and Social Committee, in accordance with Article 198 of the Treaty establishing the European Community on the 'Green Paper on education, training and research — the obstacles to transnational mobility'.

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 13 February 1997. The rapporteur was Mr Rodríguez García Caro.

At its 343rd plenary session (meeting of 26 February 1997) the Economic and Social Committee adopted the following opinion by 83 votes to three, with five abstentions.

1. Introduction to the draft opinion

1.1. It is clear from experience gleaned during the development of the various phases of the Community education, training and research programmes that the principles contained in Articles 126, 127 and 130g of the EC Treaty are considerably hampered by a range of obstacles that stand in the way of Community citizens wishing to train in other Member States.

1.2. The Committee notes that the movement of goods, capital and services within the Community is in many ways made much easier than that of the Community's own citizens. In theory it is they who should be able to take full advantage of the tasks which the Community sets itself in Article 2 of the Treaty.

1.3. EU citizenship as set out in Treaty Article 8a gives nationals of the Member States the right to move and reside freely within the Union. This fundamental individual right has, however, been jeopardized by a number of problems and difficulties which hinder the mobility of citizens who wish to avail themselves of training opportunities on offer outside their Member State of origin. In short, this is an indicator of the slow progress in the social sphere in the Community.

1.4. It is Community programmes for education, training and research which are responsible for the movement of the largest number of citizens between the different States. This places them in a particularly good position to determine the obstacles experienced by Community citizens exercising their right to move freely and take up residence in the EU.

1.5. The Commission is presenting this green paper with the understandable intention of providing Community citizens with the most appropriate solutions to mobility problems within the EU. It hopes that the document will provide the basis for a vigorous debate that will uncover both the problems experienced by people moving to another Member State for training purposes and solutions to these problems.

It must be made clear that it is useless to highlight problems and suggest solutions if this is not accompanied by a sincere desire to take firm and appropriate action to change the status quo by revamping the rules where necessary. Adopting viable solutions is the responsibility of the Council and the Member States, each within their own sphere or competence. Euro-scepticism among citizens can be countered by showing them that they will have a better everyday life and brighter prospects for the future within a strong, united Europe in which human and social values occupy the pre-eminent position accorded them by the spirit and content of the Union Treaty.

2. The green paper

2.1. The green paper summarizes the background, obstacles and possible solutions from a point of view which is firmly rooted in the experience that the Commission has acquired in the implementation of the many different Community education, training and research programmes. Far from claiming that the document is exhaustive, the Commission calls on the EU's socio-economic interest groups not only to give a formal opinion on the lines of action, but also to suggest other measures for removing those obstacles which have already been detected and any obstacles which they may be able to identify.

2.2. In Part A, the green paper lists a number of advantages — which the Committee endorses — of mobility for educational, vocational and continuing training, and research purposes. Mobility of this kind generates a real wealth of knowledge and experience which encourages improved occupational qualifications both now and in the future. This in turn will help to improve employment prospects in the Community.

2.3. In Part B, the green paper lists clearly and concisely those obstacles regarded as most urgent on the basis of the experience acquired in the programmes. There are three main groups of problems detailed in the lengthy list given in the Commission document:

2.3.1. Legal and administrative obstacles concerning

— the right of residence;

— the recognition, certification and validation of courses of study;

— the territorially restricted nature of national grants;

— the administrative and organizational problems of educational institutions attended by students and pupils.

2.3.2. Socio-economic obstacles associated with:

— the different tax arrangements in the Member States;

— social protection.

2.3.3. Obstacles of a practical nature:

— language and cultural difficulties;

— a lack of information on the host country;

— the shortage of businesses prepared to take on young people for training;

— everyday life in the host country.

2.4. The green paper ends with a number of lines of action designed to tackle each of the obstacles described in the document. They contain various legal measures, such as the actual application by Member States of existing directives which have not yet been applied, the introduction of new legal instruments aimed at harmonizing arrangements in the Member States, and recommendations that — while respecting national sovereignty — give clear guidelines as to how to eliminate the obstacles which hinder citizens.

3. Comments

3.1. *General comments*

3.1.1. The Committee endorses any initiative which adopts a critical stance towards the way the European integration process is developing. The green paper is in itself a clear recognition of the deficiencies that have blighted the integration process over the years, especially those which have a direct impact on citizens. It is both positive and healthy that Europe's leaders have sufficient social awareness to set about the task of making genuine individual freedom of movement possible by removing all legal and bureaucratic obstacles. Equally, Member States cannot use the argument of sovereignty to obstruct citizens' possibilities of embarking on those training courses within the Community which are best suited to them.

The Committee welcomes this initiative which it is convinced can help to create the conditions necessary to guarantee better coordination between the Commission and the Member States and thus gradually overcome the obstacles encountered by citizens moving within the Union.

3.1.2. The more material provisions of the Treaties have been implemented more effectively than its human aspects. As a result goods move more easily within the Community than people.

What is needed is a move towards political agreement that paves the way for a more genuine Citizens' Europe.

3.1.3. From the point of view of strategy, it is appropriate that once the Community education, training and research programmes have moved through a number of stages of development — and have involved a large number of EU citizens — the question be raised of the need to solve mobility problems between Member States.

The ESC hopes that this initiative will culminate in a document which will serve as the basis for the removal of existing obstacles. In this connection the Committee would refer to its opinion on the White Paper on education and training — teaching and learning: towards the learning society, adopted at its plenary session on 10 July 1996, in which it stated that mobility was a fundamental principle of lifelong education and training.

3.1.4. The Committee would particularly highlight those chapters of the green paper dealing with third country nationals who legally reside in a Member State. These citizens experience additional problems on top of those which persistently affect Community nationals. All measures aimed at integrating third country citizens should be encouraged and supported, particularly with the objective of stepping up action to counter racism and xenophobia in the Union.

The Committee therefore explicitly supports any measures adopted to implement line of action No 6 (improving the situation of third country nationals with regard to training).

3.1.5. In the interests of a more efficient use of resources, the Commission should as far as is possible endeavour to avoid duplicating research into the obstacles experienced by EU citizens when they attempt to move freely within the Union.

For this reason, the Committee considers that some coordination would have been desirable between (a) the group of experts set up by the Commission under the chairmanship of Mrs Veil to study the obstacles hindering the free movement of workers and people in general and (b) the other groups of experts that the Commission is set up to facilitate the transnational mobility of teachers and students. What is needed in both cases is the presence of representatives of the social partners, since the world of work — in the form of businesses, workers and other economic and social activities — is a constant factor in all movement associated with education, training and research programmes.

This green paper essentially provides the chapter on education, training and research for the white paper that the Commission is to publish tackling the full range of obstacles to mobility experienced by EU citizens, regardless of their reasons for moving.

3.1.6. To continue the point made above, the ESC, as the Community advisory body representing the socio-economic players, regards itself as a discussion partner that is well-placed to know what kind of training for young people and the unemployed is actually required in the labour market.

The definition of young people varies widely from one Community programme to another. The Committee feels that, in practice, this creates an obstacle to mobility and suggests, therefore, that a more flexible definition be sought.

All levels of training have the overriding objective of preparing young people for the challenges of the marketplace. Accordingly, Community education, training and research programmes are an important step forward in achieving this aim.

That is why the ESC — as the legitimate representative of the socio-economic interest groups — should be directly involved in the consultations which are underway on the final version of the present document, given that some proposed solutions could have a direct impact not only on the future employees of Europe's businesses, but also on today's workers and firms.

3.1.7. It is of consummate importance to find solutions to the problems hindering the mobility of those preparing to enter the labour market. At a time when jobs are scarce and hard to come by, any attempt by the Member States to protect their national labour market must be actively opposed. The green paper does not mention this problem which may be encountered by participants in Community training programmes when they complete their period of training.

Furthermore, the Committee notes that many Member States reserve some, if not all, public sector jobs for their own nationals and feels that the public sector in all EU countries should be open to all Community citizens.

The Committee considers that the Commission should highlight this aspect so that it is included in the final document.

3.2. *Specific comments*

3.2.1. The green paper acknowledges the patchy application at national level of directives dealing with the removal of obstacles to citizens' mobility. The Member States must therefore make a real effort to eliminate such obstacles, and their governments must, without delay, apply Community regulations to help citizens in their everyday lives.

The Committee wishes once again to highlight the need for a European researchers' and grant-holders' charter to enable researchers and grant-holders to avoid the problems, especially in the areas of tax and social protection, which hinder movement between the Member States. On several occasions, the Committee has asked the Commission to submit a proposal for such a charter in order to facilitate mobility for all types of training, whether academic or in-service, and would once again reiterate its request.

3.2.2. The implementation of all Community education, training and research programmes should be preceded by an analysis of the potential mobility problems which, though unrelated to the programmes themselves, participants may experience.

Citizens who are considering taking part in such programmes should be informed beforehand of these difficulties. Where programmes involve moving from one Member State to another, programme information should specifically tell potential candidates of the problems which they will experience both during and after training. The information should also contain practical solutions which can be applied by the participants.

The Committee therefore calls for line of action No 9 (improving the information available) also to state that

all such Community programmes should contain specific information on the difficulties that candidates may experience during or after the period of training and possible solutions.

We should also bear in mind the disabled or handicapped who, because of their disability, may experience additional problems to those encountered by all citizens moving abroad for training purposes. The Committee feels that the final version of the green paper should include a special reference along these lines.

3.2.3. Broadly speaking, the dissemination of information in the Member States must not only be guaranteed but also checked for ease of access by citizens. Everyone has a right to know what opportunities are available. It is the Commission's responsibility to ensure that the dissemination of information of this kind is not restricted to the usual small groups of people who receive information on Community action. We can hardly create a European consciousness if we do not publicize transnational training activities among all those involved in the EU's educational, social and business communities. Full-scale information networks must be set up and make use of all the multimedia possibilities available in society. All EU educational institutions and businesses must have access to such networks.

The Committee therefore calls for line of action No 9 also to state that a network be set up to systematically disseminate information to citizens on all Community training opportunities that are on offer.

3.2.4. The language barrier is the first obstacle for those who want to avail themselves of transnational EU training opportunities. It is impossible to go abroad for educational, training or academic purposes generally without a knowledge of the language of the country to which you are going. Children must be encouraged to learn other Community languages from the time they start school.

The Committee has commented repeatedly on this matter, stressing the need to encourage, develop and strengthen all initiatives aimed at improving citizens' knowledge and use of EU languages. In this connection it would refer to its opinions on the Green Paper on the European dimension of education, the proposal for a European Parliament and Council Decision setting up the Community action programme Socrates, the Leonardo programme, and more recently the opinion on the White Paper on education and training — teaching and learning: towards the learning society.

The Committee would therefore reiterate its comments on languages in all the opinions it has issued on the various education, training and research programmes. All action which is adopted by the Commission and the Council to promote and encourage the teaching and learning of Community languages must be supported. In the long-term this will not only improve EU citizens' training opportunities, but also familiarize them with Europe's cultural diversity, as well as stimulating mobility.

3.2.5. Programmes which promote language learning for young people and adults are meaningless if we do not think about the future. We must concentrate our efforts on children and promote the teaching of Community languages in schools throughout the EU. At the same time we must respect as far as possible freedom of choice regarding the languages taught to children. In this connection — and in compliance with Member States' own freedom to decide on educational matters — line of action No 8 should also state the need for agreement among Member States on the requirement that national education systems a) include a minimum of two Community languages in syllabuses, and that b) a sufficient amount of teaching time is set aside to ensure that the languages are learnt to a high standard. A more comprehensive young student exchange programme to round off the language teaching given in schools should also be promoted.

Similarly, adults who have not had the opportunity to study other Community languages must be encouraged to do so. Continuing training may be the appropriate context in which to provide basic and advanced language training programmes for these learners.

3.2.6. In addition to boosting the learning of Community languages in schools, the ESC calls for students to be encouraged to study subjects related to European integration and the European venture. This would be a long-term attempt to remove barriers which are less visible and less concrete than those described in the green paper, and which are more closely linked to personal and collective attitudes than obstacles created by differences in national legislation. Differences in culture, religion, the way we think, skin colour, ethnic background, and so on — indeed, everything that makes us different from nationals of the host country — can be problems which are not mentioned in the Commission document but which are used and fanned by xenophobic political movements in the hope that locals will turn against people from abroad. Although such political activity is fortunately only practised by a minority in the Community, promoting knowledge about other peoples, their cultures, beliefs and what we have in common is the best way of halting and eradicating such views.

A new line of action which the Commission should consider including is to introduce at Community level and in all EU schools a specific academic subject along the lines described above. This would be taught to all EU schoolchildren and its content would be the same across the Union.

3.2.7. Validation and recognition of study courses carried out in another Member State must remain a priority for the Community. This will give workers and the unemployed access to job opportunities throughout the EU. It is a principle which must be extendible to vocational training and to all non-regulated studies. The single market and the principle of free movement of workers can no longer be jeopardized because legal or administrative questions about their diplomas and certificates cast doubts on their occupational qualifications. In this context the Committee would point out the contribution made by CEDEFOP to vocational training and the recognition of qualifications. It is only right to take this contribution into account. Furthermore, attention should also be drawn to the role of the NARIC network.

The Council and the Commission must continue to give detailed attention to the removal of obstacles to the recognition and validation of courses and qualifications and, where necessary, use all the instruments available in the Treaty to ensure that Member States comply with Community regulations.

3.2.8. In the interests of improving social justice, it is essential that immediate and priority action is taken to ensure that the most disadvantaged citizens are able to benefit from the Community programmes dealt with in the green paper. Young people without economic resources and unemployed people with little or no social protection may be — as the Commission document recognizes — precisely those who find it most difficult to participate in programmes of this kind. If we want a stronger Citizens' Europe, we must strengthen solidarity and fairness in access to the opportunities offered by society at Community level. Distribution of aid for transnational mobility can only be termed fair if the recipient's socio-economic position is taken into consideration. The Committee thus calls for line of action No 7 to state that the financial aid set out in the programmes should take account of the recipient's financial position or that of their family, bearing in mind the special features of national schemes for funding studies. Accordingly, the programmes should include a scale whereby assistance would be awarded to those in greater financial need.

Brussels, 26 February 1997.

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) temporarily withdrawing access to generalized tariff preferences for industrial goods from the Union of Myanmar [1]', and**

— **the 'Proposal for a Council Regulation (EC) temporarily withdrawing access to generalized tariff preferences for agricultural goods from the Union of Myanmar' [2]**

(97/C 133/16)

On 21 February 1997 the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the above-mentioned proposals.

The Economic and Social Committee decided to appoint Mr Etty as rapporteur-general for its opinion.

At its 343rd Plenary Session (meeting of 27 February 1997) the Economic and Social Committee adopted the following opinion with a majority of 93 votes in favour, two against and two abstentions.

1. The Committee, recalling its Opinion of 19-20 October 1994 on the Proposal for a Council Regulation (EC) applying a three-year scheme of generalized tariff preferences (1995-1997) in respect of certain industrial products originating in developing countries, the Proposal for a Council Regulation (EC) extending into 1995 the application of Regulations (EEC) No 3833/90, (EEC) No 3835/90 and (EEC) No 3900/91 applying generalized tariff preferences in respect of certain agricultural products originating in developing countries [3], its Opinion of 24-25 April 1996 on the Proposal for a Council Regulation (EC) applying a multiannual scheme of generalized tariff preferences from 1 July 1996 to 30 June 1999 in respect of certain agricultural products originating in developing countries [4] and in particular its positive comments pertaining to the articles on total and partial temporary withdrawal of the scheme of generalized preferences, fully supports the Commission's proposal to withdraw from Myanmar the advantages of the generalized scheme of preferences established by Regulation (EC) No 3281/94 as long as forced labour practices in that country remain.

2. The proposal sets a vital precedent. It seems a clear signal to the EU's trading partners that the EU is serious about its determination to use the GSP to meet the goals for which it was created, namely to improve the conditions of people in the developing countries through the provision of trading privileges and to prevent the abuse of the GSP through the encouragement of reports from countries which do not respect the basic human rights mentioned in the EU's relevant instruments.

3. Due procedure, as laid down in Council Regulation No 3281/94 on the GSP, has been followed by the European Commission. Following the formal announcement of opening an inquiry, the Commission received evidence from a wide range of relevant interested parties, including the Government of Myanmar, the military junta SLORC. Strong support for the withdrawal of EU preferences was provided by representatives of the democratically elected government within Myanmar, including its leader Daw Aung San Suu Kyi, which has been kept out of office by the SLORC. The Committee wishes to stress the importance it attaches to the extremely careful handling of the case by the Commission. This has set a standard for future cases and must have convinced the EU trading partners of the fairness and transparency of the investigations practises.

4. The Committee fully agrees with the Commission that forced labour is, indeed, a widespread practice in Myanmar. It is characterized by systematic coercion and violence imposed by the army, police and other security forces to use forced labour for, in particular, portering, military labour, large scale infrastructure projects, army owned commercial projects and tourism infrastructure building. The current situation is that the government of Myanmar, far from acting to end the practice of forced labour, is actively engaged in its promotion. It is today an endemic abuse affecting hundreds of thousands of people who are subjected to the most extreme forms of exploitation, which all too frequently leads to loss of life.

5. The government of Myanmar has refused to allow a fact-finding mission of the EU to visit the country. The Commission deplores that decision. The Committee recommends that, if the situation in Myanmar does not change in the future, the Commission should repeat its request to the government every year.

6. The government of Myanmar has argued that the alleged forced labour practices are in fact based on Buddhist traditions. The Committee notes with great interest that practising Buddhists in the hearings conducted by the Commission, have stated that this 'cultural argument' is false. In this connection, the Committee reiterates its view that human rights are universal values which cannot be interpreted by governments at will in a 'flexible' way, having recourse to such factors as the

[1] Formerly known as the Union of Burma.
[2] OJ No C 35, 4. 2. 1997, p. 14.
[3] OJ No C 397, 31. 12. 1994.
[4] OJ No C 204, 15. 7. 1996.

stage of development, cultural or religions traditions, and political options. The Committee recommends that the Commission in its relations with third countries pays sincere attention to such factors whenever they are raised in discussions about serious violations of fundamental human rights. At the same time, the Commission must remain aware of efforts to abuse these factors in order to escape from criticism for such violations.

7. It is highly surprising to see that the government of Myanmar has also used in its defence references to exemptions contained in the text of ILO Convention 29 on forced labour. The ILO has, for many years, criticized and condemned Myanmar for grave violations of the Forced Labour Conventions. In 1995 and 1996 Myanmar was even cited for this in a special paragraph in the Report on The Applications of Ratified Conventions of the International Labour Conference. This is the strongest instrument in the regular system of supervision of the implementation of Ratified Conventions of the ILO. The effectiveness of this system should not be underestimated. However, the ILO cannot impose penalties having a direct financial impact.

8. The Committee notes that the plaintiffs, the International Confederation of Free Trade Unions (ICFTU) and the European Trade Union Confederation (ETUC) have, on 2 January 1997, formally extended their complaint of 7 June 1995, which led to the Commission's decision to open an investigation, to also cover Myanmar's agricultural products exports to the EU and its Member States. They requested the EU to apply the withdrawal of Myanmar's GSP benefits also in the agricultural sector, further to Council Regulation No 1256/96 of 20 June 1996, extending the same GSP provisions to this sector. This should, in their view, not require a further inquiry as the Council's present proposal already clearly demonstrates that forced labour is systematically used in Myanmar. The Committee expresses its sympathy with the request of the plaintiffs and recommends Council to act accordingly.

9. The Committee hopes that the exclusion of Myanmar from the EU GSP scheme, in combination with future results of the ILO supervisory system with respect ILO Convention 29, will send a clear message to the military junta ruling the country that they can only expect ever stronger international isolation as long as they continue to engage in practices which so clearly violate internationally agreed standards for fundamental human rights.

10. Public opinion in the EU is increasingly aware of the abuse of human rights in Myanmar. Trade unions, non-governmental organizations including human rights groups and consumer organizations, have all expressed support for the taking of strong measures by the EU. In their campaigns, they have regularly drawn attention to the role of multinational companies, including some based in the EU, which could benefit at least indirectly from forced labour practices in Myanmar and which, by their investments, could throw a lifeline to the beleaguered military regime by providing it with badly needed foreign currency. The Committee requests the Commission to pay special attention to this in its future monitoring of the developments in Myanmar.

11. Furthermore, the Committee requests the Commission to explore ways and means of addressing in an appropriate way human rights violations in future meetings with the ASEAN, of which Myanmar will shortly be a member. An appropriate way might be found in the framework of the 'constructive engagement' approach which was discussed recently in the EU-ASEAN ministerial meeting in Singapore.

The Commission must ensure that the Union of Myanmar, once it is a member of ASEAN, will not be able to bypass withdrawals of generalized tariff preferences through regional cumulation of origin.

12. The Committee finally notes that it thinks that a formal investigation must be initiated by the Commission into the situation in Pakistan, subject to a similar complaint lodged by the ICFTU and the ETUC in June 1995 at the same time as the complaint against Myanmar. Further action by the Commission is still lacking in this respect and several million people are engaged in forced labour in Pakistan, including children. Despite the adoption of a law against forced labour in March 1992, the government of Pakistan has taken no effective measures to achieve observance of the law. Pakistan has been continuously criticized by the ILO for its use of forced labour in the past ten years, without any positive results. As was called for by the resolution adopted by the European Parliament on 14 December 1995, an investigation should be opened into forced labour in Pakistan just as it was for Myanmar.

Brussels, 27 February 1997.

The President

of the Economic and Social Committee

Tom JENKINS