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II

(Preparatory Acts)

ECONOMIC AND SOCIAL COMMITTEE

Opinion of the Economic and Social Committee on the 'Communication from the Commission on environment and employment (building a sustainable Europe)'

(98/C 235/01)

On 24 November 1997 the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 May 1998. The rapporteur was Mr Pellarini.

At its 355th plenary session (meeting of 28 May 1998), the Economic and Social Committee adopted the following opinion unanimously.

1. Introduction

1.1. The principle of sustainable development is enshrined in the preamble to the Amsterdam Treaty: among the Union's objectives, Article B closely links 'balanced and sustainable development' with 'a high level of employment'.

1.2. The present communication represents an initial step towards this dual environment-employment approach. It is assumed that this approach will be fruitful, and that the appropriate conclusions should be drawn for the overall thrust of Community policy.

1.3. This question has already been discussed several times by the ESC, primarily in its Opinion on economic growth and the environment⁽¹⁾. Under the heading 'managing the transition towards sustainable development', it was stated that 'at this stage, both sustainable

development and growth in employment are firmly-fixed objectives, requiring strong, political initiative and the responsible participation of all partners'.

1.4. The Committee reiterates this view, in the light of the December 1997 call by the Luxembourg European Council for a strategy to integrate environmental concerns into Community policies and activities, and of the forthcoming deadline for examination of such a strategy at the Cardiff summit.

2. Comments on the links between environment and employment (chapter 2)

2.1. The Committee welcomes the Commission's adoption of the approach advocated in its earlier opinions, especially in the 'managing the transition' section of the communication, and its announcement, in Chapter 3, of specific supportive policies for various sectors.

⁽¹⁾ OJ C 155, 21.6.1995.

2.2. The Committee is also convinced that without a strong political message orienting policy towards sustainable development at Community, national, regional and local level, some of the statements of principle in the Treaties may remain a dead letter. The Committee expressed this view in its opinion on the fifth environmental programme, considering that the latter would not be feasible unless 'the political authorities set priorities'⁽¹⁾ not only at Community, but also at Member State level.

2.3. The international undertaking entered into by the EU — in 1992 at Rio, on the environment as a whole, and in 1997 at Kyoto on climate change — to adjust growth in line with new parameters for the conservation of natural resources, must be effectively applied and built into the various measures. At the present stage, this undertaking can be consolidated by harnessing all those experiences which can help optimize environmental protection and employment growth. It must be borne in mind, however, that the results cannot be checked against a single benchmark, but are spread across a broader backdrop. Their effects can only be amplified by pursuing a 'sustainable growth' strategy with determination.

2.4. The Committee therefore believes that the communication does not examine a number of basic concepts in sufficient detail and fails to provide an exhaustive picture of what has been achieved to date by means of programmes and political initiatives.

2.5. The title itself suggests a simplistic association of the concepts of environment, employment and development. The phrase 'building a sustainable Europe' in particular is either meaningless or, at best, obscure in the extreme.

2.5.1. It would have been preferable, in the interests of greater clarity, to use terms with an established meaning, such as 'building a competitive Europe as part of sustainable development'.

2.6. Given the importance and scale of unemployment in Europe, it is actually dangerous to establish the automatic link between environmental protection and employment which the communication appears to imply. Although both objectives must be built into all Community policies, combating unemployment can only result from the overall implementation of such policies.

2.6.1. It must be borne in mind that environmental protection and conservation is a policy in its own right,

quite apart from its collateral aspects, and that the environmental impact audit of projects and programmes can usefully be accompanied by an employment impact audit report for information purposes, which may be helpful in detecting synergies between different policies — without thereby prejudging decisions which must be made on strictly environmental grounds.

2.7. The communication begins by stating (in point 1.1) that 'our EU economies are not developing in a sustainable way', but fails to follow through to the logical conclusion that it is necessary to change the socio-economic development paradigm and adopt a new global approach which makes the most of new know-how and business skills, as initially mentioned in the Delors white paper (see below) and set out in the fifth programme for sustainable development.

2.7.1. By restricting itself to suggestions of possible measures of sectoral scope within the existing framework, the communication gives the impression that the Commission has made up its mind to ignore the fact that the present growth model offers no radical solutions, only ways of cushioning the effects of the problem by delaying the foreseeable damage.

2.8. This is shown all the more clearly by the complete absence from the communication of any in-depth or up-to-date thinking on at least three key points:

- unemployment in Europe is structural, not cyclical;
- despite the fundamental role of technological development in boosting European economic competitiveness, it is far from certain that technological innovation will be capable of creating more jobs than it replaces, particularly in terms of conventional employed work;
- it is an illusion to believe that an automatic cause-and-effect link still exists between the rate of economic growth and falling unemployment.

2.9. It is clear from the above that to tackle unemployment successfully, a comprehensive policy must be adopted, aimed at achieving sustainable development, and which makes use of a whole range of instruments,

⁽¹⁾ OJ C 287, 4.11.1992.

adheres to the 'polluter pays principle', and fits in with the legal formalization of the concept of responsibility for environmental damage⁽¹⁾.

2.10. It is evident, assuming agreement on the meaning of the term 'sustainable development' (as understood in the Commission document too) that if this objective is to be pursued, the socio-economic mechanisms currently underpinning the production and consumption of goods and services need to be challenged. The environment-employment approach can only be fully effective if this is taken on board and directly reflected in the job-creation policies being pursued by the various Member States.

2.11. In this regard, the Committee regrets that the comments made in Chapter 10 of the Delors White Paper on insufficient use of labour resources and excessive use of natural resources, and on the need for fiscal measures to redress this imbalance, are not adequately developed in the communication⁽²⁾.

2.11.1. A fruitful combination of the twin priorities of environmental protection and job creation is only possible by adopting this approach. Action should not be confined to taxation; there should be a whole package of measures, so as to comply with the principle of fiscal neutrality.

2.12. There must be a dynamic approach which takes account of the new environmental-protection needs and of the new productive and ecological management methods, the new technologies and new information and training services implicit in the shift to sustainable development. This is the only way to identify the new occupational profiles and new jobs which may be created, and to exploit the specific role which SMEs can play.

2.12.1. In creating these new occupational profiles and new jobs, special attention must be given to workplace safety and health regulations.

2.13. Thinking should not be restricted to industrial-type employment; the new forms of self-employed, fixed-term contract and part-time work which are

emerging, principally in the information- and consultancy-related services sector, suggest that growth of atypical employment is more likely.

2.14. The above-mentioned opinion on growth and the environment argued that there was no automatic link between environmental protection measures and employment trends. This is confirmed by the abundant research literature provided by Commission services over recent years in this area. The research does, however, show that environmental protection measures using the best available technologies have a net albeit modest impact on jobs and are often combined with technological innovation and production rationalization which safeguard corporate competitiveness. To this extent, they at least help to safeguard employment.

2.14.1. Developing new production processes, products and services which satisfy new demands from industry, public administrations and consumers can generate synergies which, however, require major investment.

2.15. In addition to the specific 'eco-industrial' sector — which is a particular response to the demand for environmental protection technologies and services, and is a new, growth sector — a more general distinction must be made between (a) pollution reduction and prevention — which involves additional investment, but which in the long term results in raw material and energy savings, thereby contributing to greater productivity and, in the long term, lower social costs generated by environmental damage — and (b) natural and urban environment conservation and rehabilitation, which creates new jobs, both conventional and innovative.

2.15.1. Here, a further distinction should be made between the methods of financing the various measures. The former concern mostly private, profit-making sectors (manufacturing industry, energy production, transport), while the latter require large-scale public investment.

2.16. Implementation of a dynamic and comprehensive strategy will require new know-how, skills and consultancy services. These may be provided not only by public bodies — which must prepare themselves accordingly — but also by new service companies, which might be an important provider of jobs. The results, in

⁽¹⁾ Cf. the ESC opinion on the communication from the Commission to the Council and Parliament and the Economic and Social Committee: Green paper on remedying environmental damage, in OJ C 133, 16.5.1994.

⁽²⁾ Cf. the ESC opinions on the white paper in OJ C 295, 22.10.1994.

employment terms, should be assessed in the aggregate and in the medium term, taking account of the necessary restructuring.

2.17. Since sustainable development is a goal pursued at international level, Europe could also benefit from exports of clean technologies/products and know-how if it moves more rapidly in this direction. This, too, could impact positively on employment.

2.18. The role of central, regional and local authorities should also be looked at more closely as they can introduce rules or incentives to make the public interest attractive to the private sector, thereby contributing to a gradual shift in the current model towards growth compatible with environmental protection and sustainable growth.

2.19. As part of their 'shared responsibility', the various economic and social players could harness their administrative resources and links as associations and provide encouragement, education and information with a view to 'sustainable' consumption and development. Current experiments in cooperation between different socio-occupational, trade union and environmental organizations, including across borders, are of particular value.

2.20. In tandem with horizontal education and information efforts, which may generate new types of employment in the 'third sector', in which voluntary associations — whose merits should be recognized and built upon — operate, attention should also be focused on improved environmental management of companies under the Eco audit system, which is soon to be revised to broaden its utilization and bring it more closely into line with the requirements of SMEs, especially in the crafts and micro-business sectors. The system is spread unevenly at European level, and should be encouraged more vigorously by the Member States.

2.21. The ESC would draw particular attention to the need to bring in legislative and fiscal measures that are geared to the realities of these small businesses and crafts firms so as to help them to introduce environmental standards. It would particularly stress the need to support and facilitate the role and actions of intermediary associative organizations.

2.22. The above comments reveal the Commission document to be over-cautious. It fails to open up new

lines of debate, simply listing possible measures under existing policies.

3. Comments on supportive policies and key actions (chapters 3 and 4)

3.1. The communication reviews actions already under way in the various sectors together with the supportive policies, picking out a number of key actions for the way forward. This section (chapter 4) is the vaguest part of the document: it needs to be fleshed out by practical proposals, tying in with the sectoral analysis of chapter 3.

3.2. The ESC suggests a number of issues for examination in the light of the documents received and the initiatives launched in the Member States, with the active participation and cooperation of trade organizations and environmental and consumer associations.

3.2.1. National employment policies

3.2.1.1. It is important that the sustainable development aspect should be built into the guidelines for Member State employment policies, thus promoting national territorial pacts which harness environmental resources, stimulate innovation and skills and provide appropriate means for training and disseminating know-how, particularly to small and medium-sized enterprises. These pacts should not be restricted to pilot projects, but should be built into use of the structural funds.

3.2.2. Cities and urban regeneration as a test-bed for innovative policies successfully combining the environment and employment

3.2.2.1. The 'urban space' concept has gelled in recent years. Unfortunately, however, the picture is increasingly one of decline in the conurbations which are plagued with problems having a unique impact on the environment. Old blueprints are being discarded and the concept of urban growth is progressively being replaced with that of urban conservation. The need to resolve the problems which cities pose for the environment is giving birth to a new approach, whereby cities are not seen as just a physical space in which people live, travel and

work, but as organic entities operating as a system of flows and cycles, the eco-efficient management and eco-compatibility of which guarantee the well-being of their inhabitants⁽¹⁾.

3.2.2.2. It is now clear that the methods used to protect urban ecosystems, to reduce their consumption of environmental and land resources, are heavily influenced by urban policies — that is, the planning, shaping and monitoring of the development of the urban environment — on, say, land-use, regeneration, traffic, waste-disposal or energy. It is possible to reconcile the demands of urban development with environmental-friendly solutions, and also with the need to create new, long-term jobs⁽²⁾.

3.2.2.3. The example of the construction/housing sector shows that incentives to maintain and renovate housing stock can have a much broader effect on the urban environment. Initiatives in this sector are complex and interlinked, embracing as they do a number of spheres and disciplines ranging from general urban renovation to specific policies for the restoration of inner and outer urban areas, from conservation to the development of brownfield sites and the overall improvement of the urban environment.

3.2.2.4. Energy saving should be pursued through conversion work on existing buildings, as well as through an active policy of involving users, for instance through appropriate incentives. As the figures show, this contributes not only to positive environmental effects, but also to greater job opportunities.

3.2.3. Waste management

3.2.3.1. The preventive approach of reducing the amount of waste at source, separate collection and treatment for reuse and recycling is generating new types of employment and new job opportunities. This process can be fostered, as the Committee has pointed out in earlier opinions⁽³⁾.

3.2.4. Transport

3.2.4.1. The Economic and Social Committee has, in a number of opinions⁽⁴⁾, emphasized the need for public — and particularly urban — transport systems to be overhauled and rationalized, and the need for environmental considerations to be taken into account when planning the expansion of national and trans-European networks. Secondary rail links should be upgraded, and local transport should be boosted.

3.2.4.2. It is essential to encourage the growth of public transport, as emphasized in the ESC's opinion on the green paper on the impact of transport on the environment⁽⁵⁾.

3.2.5. Rural development and Agenda 2000

3.2.5.1. There are no real grounds for optimism about the employment effects of Agenda 2000 in the farm sector. Priority actions must therefore be devised which optimize the role of farmers in protecting the environment, with particular regard to land use, landscape conservation, reforestation, combating desertification, biodiversity conservation, protection of upland areas and new commercial ventures such as agritourism and organic farming.

3.2.5.2. As part of the CAP reform, the Structural Funds should favour a switch to ecologically sustainable farming and boost new types of work attractive to young people.

3.2.5.3. Real possibilities of new jobs, technological innovation, modernization and the overall economic recovery of rural areas, however, can flow above all from a coherent and incisive rural development policy which acknowledges agriculture as the keystone of the rural economy and also aims to take all useful measures in the food, tourism, craft, transport and other ancillary sectors.

3.2.5.4. Establishing a link between the Natura 2000 network (Habitats Directive) and the structural funds, by including network sites of natural interest among Objectives 1 and 2, might help promote this kind of recovery.

⁽¹⁾ Cf. the ESC opinion on the green paper on the urban environment in OJ C 269, 14.10.1991.

⁽²⁾ Cf. the ESC opinion on sustainable development in building and housing in Europe in OJ C 355, 21.11.1997.

⁽³⁾ Cf. in particular the opinion on the review of the Community strategy for waste management in OJ C 89, 19.3.1997.

⁽⁴⁾ Cf. the ESC opinion on The citizens' network — fulfilling the potential of public passenger transport in Europe — European Commission green paper, in OJ C 212, 22.7.1996. Cf. the ESC opinion on the Green paper — towards fair and efficient pricing in transport — policy options for internalizing the external costs of transport in the European Union, in OJ C 56, 24.2.1997.

⁽⁵⁾ OJ C 313, 30.11.1992.

3.2.5.5. Management of water resources by river basin authorities, as promoted by the framework water directive, could for example serve as a powerful tool for a new approach to area management.

3.2.6. Educational and vocational training and information in the environmental sector

3.2.6.1. This is the sector where the greatest efforts should be made, to prepare workers for new types of employment, to steer young people towards new occupations and new skills and to train public officials, intermediary and professional organizations and small-business men in new technologies and environmentally-friendly management.

3.2.6.2. In addition to educational and vocational training facilities, the Eco-audit system for promoting

better environmental management by companies, which includes a continuous training and upskilling element for relevant workers, should also be brought to bear on this area.

3.2.6.3. Associations and socio-economic organizations can play a major multiplier role in the education and training sector.

3.2.7. Research and development

3.2.7.1. The new framework programme should back R&D for 'clean', technologies, together with new approaches to production methods and products which are compatible with sustainable growth and consumption. Europe's competitiveness and the ensuing growth depend on the ability to meet the challenges of environmental protection and to enhance and conserve natural resources.

Brussels, 28 May 1998.

The President

of the Economic and Social Committee

Tom JENKINS

Opinion of the Economic and Social Committee on the 'Communication from the Commission to the European Parliament, the Council and the Economic and Social Committee on food, veterinary and plant health control and inspection'

(98/C 235/02)

On 30 January 1998 the European Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was instructed to prepare the Committee's work on this matter, adopted its opinion on 5 May 1998. The rapporteur was Mr Nielsen, with Mr Colombo and Mr Verhaeghe acting as co-rapporteurs.

At its 355th plenary session on 27 and 28 May 1998 (meeting of 27 May) the Economic and Social Committee adopted the following opinion with 81 votes in favour and 3 abstentions.

1. Introduction

1.1. In this Communication, which follows on the Communication on consumer health and food safety of April 1997⁽¹⁾, the Commission gives an overview of the measures adopted in connection with the introduction of the Commission's food, veterinary and plant health control services.

1.2. In addition, the Commission gives details of plans for future control activities, which are based on a food safety study and recommendations by its Inspection General Services (IGS) (IGS report)⁽²⁾.

⁽¹⁾ COM(97) 183, 30.4.1997.

⁽²⁾ Inspection General Services (IGS) study of 13 October 1997 on food safety control bodies.

1.3. In its 1996 opinion, the ESC was not convinced that the existing office should be converted into an agency⁽¹⁾. In the light inter alia of this ESC opinion, the Commission has abandoned its proposal to set up a veterinary and plant health agency⁽²⁾ and has come to the conclusion that responsibility for control and inspection should continue to be exercised (under the general authority of the Commission) by the Food and Veterinary Office (FVO) in Ireland, which is attached to DG XXIV.

1.4. The Commission still believes that food safety and protection of consumers' health can best be achieved through a working partnership between the food industry, the official control services at national level and the Commission, operating within the framework of effective legislation. The food industry needs to develop monitoring and self-policing systems to ensure that food at all stages of the production chain complies with EU rules. The national authorities should continue to exercise central authority and apply coordinated control programmes and audit-based control systems. The Commission also wishes to monitor the national control authorities' efficiency by means of such audit-based control systems.

1.5. Here the Commission endorses the IGS report's recommendations regarding the expansion of control, the scope for the common control services to work impartially and objectively, and a clearly defined legal and official status specifying the control services' mission, the functions and responsibilities of personnel, procedures, working methods, etc.

1.6. The concept of 'farmyard to table control' presupposes small, multidisciplinary inspection teams able to cover all aspects of the production chain, from animal feed processors through health and welfare standards on farms, markets and during transport, to the processing, storage, distribution and retail sale of the food concerned. In addition, it is proposed to set up a small number of emergency teams to respond immediately to public health, or animal and plant health crises in the EU.

2. General comments

2.1. The ESC wholeheartedly supports the Commission's efforts to give greater priority to consumers' health and food safety and is able to endorse the proposed shape of future control and inspection activities, subject to the following reservations and recommendations.

2.2. As mentioned below, it is of vital importance that the rules governing control activities as well as the framing of constructive and apposite procedures for cooperation between the Food and Veterinary Office and other inter-institutional or national bodies ensure that optimum use is made of the resources made available by the Commission and the Member States for control and inspection purposes. In this connection, control procedures must be streamlined as far as possible and close coordination is essential. A system that looks good on paper but is of no practical use could result in redtape and inefficiency, with a loss of support and trust. In this respect, the Committee welcomes any initiative directed towards coordination of national bodies active in this field.

2.3. According to the Commission, in 1997 there were 76 Council directives containing provisions on Commission monitoring or control of enforcement in Member States or third countries (57 in the veterinary sector, 16 on plant health and 3 on official control of food and food hygiene)⁽³⁾.

2.4. Regardless of the need to press ahead with simplifying the rules, additional rules and measures will no doubt have to be adopted in the years to come for certain components of the food, veterinary and plant health sector. Increasing problems e.g. in the field of microbiology can be expected to necessitate further expansion of EU legislation.

2.5. Further, the accession of the central and eastern European countries to the EU, with the addition of new borders and neighbouring countries, will per se substantially boost the need for, and scope of, the Commission's control and inspection activities, particularly in the veterinary sector. Here it is important that the applicant countries should incorporate EU regulations promptly so that any exemptions applicable during a transitional period are as shortlived as possible.

2.6. It is therefore vital for the EU to take energetic and efficient control and inspection measures to ensure enforcement of the regulations and achieve its goal of high safety and health standards in the sphere of food, veterinary and plant health. Effective, uniform

(1) ESC Opinion of 27 November 1996 on the establishment of a veterinary and plant health agency — OJ C 66, 3.3.1997, p. 43.

(2) COM(96) 223; OJ C 239, 17.8.1996, p. 9.

(3) COM(97) 183 Annex II.

enforcement of the relevant provisions, combined with harmonized rules for payment of control fees, is also a sine qua non in guaranteeing smooth operation of the single market and fair terms of competition. The Committee welcomes the Edinburgh Forum on enforcement of consumer-protection legislation (11-12 June 1998) which sets a precedent for cooperation and calls for follow-up in the food sector with regular meetings between the Member States' food enforcement officers in order to ensure consistency.

2.7. In this connection, the ESC is able to endorse the Commission's proposals on framing guidelines to ensure uniform application and coordinated national control programmes encompassing the entire food production chain and the introduction of audit-based control systems.

2.8. The ESC supports the idea of public access to information. As the Commission proposes, the Office's working methods should be open to public scrutiny and arrangements should also be made for an effective internal system to monitor management, based on the recommendations of the IGS report (see point 3.5).

2.9. The Commission's most recent decisions regarding on-the-spot veterinary checks⁽¹⁾ must, as the Commission itself advocates, be backed by speedy action. The ESC agrees that the results of inspection visits, in the shape of provision of information on shortcomings in the Member States' control systems, should be available on the Internet, in annual reports and at regular discussions between consumer and producer organizations. However, one condition must be that the Member States under criticism should have an opportunity, prior to publication, to comment on such information and correct misunderstandings. However, the publication of information relating directly or indirectly to individual undertakings would be in breach of Treaty Article 214 on confidential information concerning undertakings⁽²⁾.

⁽¹⁾ Commission Decisions 98/139/EC and 98/140/EC of 4.2.1998 concerning on-the-spot veterinary checks carried out by Commission experts in the Member States and third countries respectively (OJ L 38, 12.2.1998).

⁽²⁾ Under Treaty Article 214, persons employed by the EU are forbidden 'to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components'.

2.10. The ESC also supports the Commission's idea of assessing the need for additional national control of safety standards for non-animal foodstuffs (e.g. fruit and vegetables) and, if need be, introducing further national or Community measures. However, the decisive factor must be the existence of such a need to avoid merely increasing the cost of control without sufficient justification.

2.11. Leaving aside the importance of continued prioritization of the food sector, compliance with EU rules on animal health and welfare remains a matter of key importance for operation of the single market, as borne out by the large volume of legislation on this subject.

2.12. In this connection, the UN Food and Agriculture Organization (FAO) has also warned against the risk of serious new epidemics of contagious animal diseases as a result of intensive livestock production, the increase in long-distance transport of animals and the opening of new trade routes to the Middle East and the Commonwealth of Independent States (CIS), combined with unstable conditions and inadequate control and inspection of contagious animal diseases, notably in the Balkans. The threat comes not just from traditional contagious diseases but from new diseases such as BSE. Here the FAO stresses that it is most important for the European countries to have effective veterinary administrations.

2.13. In connection with the WTO negotiations on ways of reconciling free international trade in goods with such considerations as health and safety, the ESC calls on the Commission and the Council to do their utmost to insist on, and secure international acceptance for, the EU's control policy with a view to responding to the problems generated by liberalization of trade in the food, veterinary and plant health sector.

3. Specific comments

3.1. To date the Food and Veterinary Office has found it hard to carry out its duties because its staff is far too small. It is debatable whether a gradual increase over a number of years, in line with the IGS report's recommendations, to a total of 202 posts, including 127 A grade posts, is adequate in view of the future requirements described above.

3.2. Without making any concession on the need to recruit staff with the requisite qualifications and experience, the Commission's complex and time-

consuming recruitment procedures need to be speeded up so that the Office can become fully operational as speedily as possible. Otherwise it will not be in a position to meet the professional and political expectations of its role within a foreseeable future. The end result could then be frustration and unfortunate setbacks.

3.3. The transfer of the Food and Veterinary Office to Ireland was decided at the November 1993 Summit of the Heads of State or Government and is therefore not a matter for discussion. Nonetheless the siting of the Office at Grange, a rural area 40 km north of Dublin does give rise to a number of difficulties from the angle of staff recruitment and the practical performance of its tasks. Accordingly, in connection with the forthcoming expansion, the Commission should consider carefully whether a more central location in Dublin would make it easier for the Office to operate efficiently and effectively.

3.4. At the same time care must be taken to ensure that the siting of the Office in Ireland does not lead to a duplicate administration in Brussels, generating confusion as to responsibility. The distribution of tasks among several directorates-general and the resulting need for information and coordination, will in itself

inevitably necessitate a considerable strain on resources, regardless of the Commission's internal guidelines⁽¹⁾.

3.5. The ESC supports the Commission's plans for stringent internal checks on management, including the setting up within the Food and Veterinary Office of an internal 'quality team' whose status would be independent of the Office's internal management structure, as required for such structures under the principles governing the role of inspection bodies.

3.6. The ESC, which counts amongst its members' representatives of all links in the chain, from primary production to consumption, attaches great importance to the Commission's future control and inspection activities and will follow developments with keen attention. The ESC expects to be kept informed of progress and to be consulted on further measures in this sphere.

⁽¹⁾ The principles governing the distribution of responsibilities, including internal information and consultation procedures, are described in the Commission's internal handbook of 4 July 1997. Responsibility for the scientific committees and control activities is assigned to DG XXIV. DG III (food), DG V (food-related and zoonotic diseases) and DG VI (veterinary and plant health sector) are responsible for drafting, implementing and enforcing legislation.

Brussels, 27 May 1998.

The President
of the Economic and Social Committee
Tom JENKINS

Opinion of the Economic and Social Committee on the 'Freedom to set up a business (SMO)'

(98/C 235/03)

On 18 March 1997 the Economic and Social Committee, acting under the third paragraph of Rule 23 of its Rules of Procedure, decided to draw up an opinion on 'Freedom to set up a business (SMO)'.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 May 1998. The rapporteur was Mr Folias.

At its 355th plenary session (meeting of 27 May 1998) the Economic and Social Committee adopted the following opinion by 88 votes, with one abstention.

1. Introduction

1.1. In its work in recent months on the functioning of the Single Market, the Single Market Standing Study Group has frequently identified problems related to the opportunity to set up businesses and operate branches of existing companies in other EU countries.

1.2. The progress thus far achieved in creating a Single Market, with the many new opportunities it offers SMEs and the self-employed to operate in Member States other than their own, cannot be denied.

At the same time, however, the continuing existence of numerous obstacles to the freedom to establish businesses in other Member States is also undeniable.

1.3. It should be borne in mind, in the interests of accuracy, that points relevant to the 15 Member States also apply to the three EFTA/EEA countries (Norway, Iceland and Liechtenstein) which, under the EEA agreement, are also considered to belong to the Single Market.

1.4. The purpose of the present opinion is to show that much remains to be done in completing the Single Market, to call upon all those concerned to make efforts in the right direction, to provide practical examples of both real and artificially erected barriers, and to put forward proposals to overcome such obstacles.

1.5. In order to achieve these aims, use will be made of the findings of the questionnaires which were drawn up, distributed and returned complete, the information recorded at the hearing in Nice (France), and a sample

of specific obstacles which have been reported or identified.

1.6. 'Freedom to set up a business' must not be seen as a way of exempting a company from the rules of the host country. The purpose is to help individuals or companies wishing to set up business in a Member State and not to demand that they meet more rigorous or different conditions from local businesses. In this case 'more rigorous conditions' means any unfair treatment that creates obstacles or prevents a business from setting up.

1.7. It is not easy to separate the problem of setting up business from other aspects of the Single Market, e.g. freedom to provide services. Since the ESC has already produced several opinions on the various types of obstacles that affect the functioning of the free market⁽¹⁾, this opinion focuses on practical suggestions to help individuals and firms set up business.

2. Findings

2.1. Numerous and varied problems persist in setting up businesses in other EU Member States, constituting a whole range of 'obstacles' to the freedom of establishment. Beyond these, however, there are others facing

⁽¹⁾ Impact and effectiveness of the Single Market — OJ C 206, 7.7.1997, p. 65; SME's — Cross-border relations — OJ C 206, 7.7.1997, p. 70; The Single Market and the protection of the environment: coherence or conflict — OJ C 19 of 21.1.1998, p. 95; Preventing new barriers from arising in the Single Market — CES 453 of 25.3.1998, p. 98; Removal of certain obstacles to trade — CES 643 of 29.4.1998, p. 98.

companies or independent professionals after they have set up, which prevent them from offering their services.

2.2. Many national restrictions are due to the particular care that certain Member States take to protect their own consumers. Governments' entirely legitimate interest in protecting their consumers — a central task of theirs — should not be to justify making it difficult for businesses to set up.

3. Identified obstacles

3.1. Obstacles to free establishment have been found to be multiple and varied, national and regional, subjective and objective; some can be removed while others are insuperable without individual or collective efforts.

3.2. *Legal obstacles*

The following is a brief list of those occurring most frequently in a number of different countries:

- Recognition of qualifications;
- Recognition of requirements for practising a profession;
- Obtaining permission to exercise a profession;
- Requirements for establishing a business;
- Official red tape;
- Ban on entry to certain professions (dispensing chemists, notaries, engineers, etc.);
- Legal form of companies.

In countries with decentralized administrations, specific regional conditions exist that create additional obstacles.

3.3. *Subjective obstacles*

- Lack of information on national laws;
- Linguistic difficulties;
- Lack of data on target markets;
- Unfamiliarity with local rules and principles;
- Different culture, way of thinking;
- Different patterns of consumer behaviour.

4. Examples of specific obstacles

A series of actual obstacles which have been reported or recorded is set out below, highlighting the problems faced by businesses.

4.1. The labour codes of one Member State require local modelling agencies to set up a guarantee fund of at least ECU 15 000. This means that modelling agencies from other Member States cannot operate in the country concerned, even occasionally, without setting up the type of same fund.

4.2. Artisans avoid being employed in another Member State, as they must have a tax representative — whose services come very dear — to deal with payment of their indirect tax charges.

4.3. 7 000 estate agents fulfilling all the necessary conditions are officially licensed by the national authorities of one Member State. Under these conditions, only four(!) non-local agents have succeeded in obtaining a licence.

4.4. The relevant department of a Member State's Finance Ministry requires a written statement in cases where travellers have more than ECU 7 500 in cash on their person when entering or leaving the country. As enforcement, officials search travellers' luggage, regardless of nationality.

4.5. For years the relevant administration in a Member State has been dealing unsympathetically with requests for VAT refunds to companies of another Member State who have paid the tax in that country when taking part in international trade fairs and are entitled to a refund. Similarly, the terms and procedures required make requests impracticable.

4.6. The Member State's authorities restrict the right to payment for services of non-resident intermediaries (insurance agents, estate agents, etc.).

4.7. In order to work in a given Member State, security companies must have their head offices in that country, and both members of the board and employees must be residents. Public order and security are the reasons invoked for this.

4.8. A company from an EFTA country was unable to fulfil a contract for construction work in a Member State, because the local authorities would not allow it to be placed on the local construction register on the grounds that it did not belong to a Member State.

5. Proposals

The proposals set out here come from businesses which have suffered the practical consequences of these obstacles, from exchanges of views, and are, of course, made with a view to helping to remove such obstacles.

5.1. The ESC calls for the creation of an environment in the EU where the setting up of companies and individuals in other Member States is seen as a means of creating jobs and boosting economic activity. Cultural exchange, above all, is at the heart of this dynamic vision. In this spirit, the Commission must launch a publicity campaign to provide information about the rights of companies and individuals to set up business in the country of their choice, provided they comply with its basic legislation.

5.2. General proposals

- to create data-banks listing the appropriate authorities, and channels through which information can be obtained;
- to promote development and better use of the Euro Info Centres, which could play a decisive role in providing information and explanations to companies, and to organize bilateral or multilateral meetings to exchange views, as well as to publish a yearly report describing the problems most commonly encountered when setting up a business;
- to set up national 'one-stop shops' as part of the professional chambers (of commerce, crafts, ...) providing standardized services;
- to draw up a comparative table on the individual legislation of each Member State;
- the preparation by each Member State of Internet sites, in the 11 languages, containing comprehensive guidelines about the conditions and legislation in effect for setting up on the markets, for each sector; the Commission can also provide information centrally on its existing Internet pages (EUROPA, ISPO, etc.);
- further improvement in the use of 'Europartenariat';
- best possible use of the Community's new Joint European Ventures programme;

- allocation of more resources for venture capital and seed capital;
- a Community initiative seeking to harmonize individual laws in specific areas;
- the final conclusion of the Commission's efforts to determine a form for the European company, so that businesses can choose a legal basis whereby they can expect to be treated in the same way throughout Europe⁽¹⁾;
- priority access to sources of funding at both European ('growth and employment') and national level, for the purpose of setting up business activities.

5.3. Specific proposals

- direct negotiations between those concerned and national and regional authorities to settle specific issues;
- cooperation between professional chambers (of commerce, crafts, ...) to exchange views and experiences which will be communicated to national administrations and the competent Community bodies;
- alerting and informing MEPs, and possible lodging of proposals and/or questions in the European Parliament, also on the initiative of representatives from business entities;
- freedom of establishment uninfluenced by company size;
- equal opportunities regardless of company size;
- special provisions for non-profit enterprises and charitable bodies.

6. Post script

6.1. Through its Single Market Observatory and the present opinion, the Economic and Social Committee seeks to define a substantial and documented approach to the major problem of obstacles to the freedom to set up a business, which is seriously hampering the completion of the internal market.

6.2. In order to achieve this aim, the ESC would appeal to the parties concerned who are both responsible for creating, and capable of effectively tackling, these problems, albeit to varying degrees.

⁽¹⁾ European Company Statute — OJ C 129, 27.4.1998, p. 1.

6.2.1. Firstly, it calls upon the Commission to make concerted practical efforts to explain the workings of the Single Market, and so produce specific findings based on regularly documenting the practical consequences of EU measures.

6.2.2. Lastly, the Committee urges those Member State companies and entrepreneurs who consider it in their interest to establish themselves and operate in another market to roll up their sleeves, harness all their undoubted dynamism and exploit every opportunity they have to overcome by their own efforts as many obstacles as they can.

Brussels, 27 May 1998.

The President
of the Economic and Social Committee
Tom JENKINS

Opinion of the Economic and Social Committee on the 'Communication from the Commission — European capital markets for Small and Medium-sized Enterprises: prospects and potential obstacles to progress'

(98/C 235/04)

On 13 May 1998 the European Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 May 1998. The rapporteur was Mr Pezzini.

At its 355th plenary session (meeting of 27 May 1998) the Economic and Social Committee adopted the following opinion by 101 votes to one, with one abstention.

1. Overall remarks

1.1. The European Commission is to be congratulated on its positive and sustained efforts to stimulate the creation of European capital markets suitable for small and medium-sized enterprises (SMEs). Its actions were described in an earlier Communication 'Reporting on the feasibility of the creation of a European Capital Market for smaller entrepreneurially managed growing companies' ⁽¹⁾, on which the ESC did not deliver an opinion. These endeavours by the Commission responded to an earlier request by the Committee to 'carry out a feasibility study on the establishment of a recognized European capital market giving European firms, especially small firms, access to capital.'

1.2. In this follow-up communication the Commission has produced a constructive document. Nevertheless, there are certain points, such as the manner in

which EU securities legislation operates in practice, which have not received the detailed examination they deserve. There are others in which factors other than those put forward by the Commission are significant.

1.3. There are a whole range of other factors besides the adequate provision of finance which determine whether firms will grow to a significant size. It was decided that the most significant of these deserved examination in this opinion in order that a better overall assessment of the problems might be made. A number of the recommendations made arise from a fact-finding mission by the ESC to the USA made in November 1997. This was largely inspired by the reference to the US capital markets in the introduction to the Commission communication and by the encouragement to examine the US situation given by Commission President Santer in his speech at the Economic and Social Committee on 28 October 1997. As a result, this opinion covers a much wider field than the Commission communication, which merely deals with capital markets for SMEs.

⁽¹⁾ COM(95) 498 final, 25.10.1995 .

1.4. A further criticism of the communication is that it fails to make clear that the new European capital markets are only of value to companies which, whilst technically SMEs (under 250 employees, less than ECU 40 million capital turnover and ECU 27 million on the balance sheet), are either of medium-size, particularly innovative start-ups, or firms that are particularly capital intensive.

1.5. In the USA, too, only some 2 % of companies at the most, albeit those with above average prospects for growth, attract external funding from informal private investors ('Business Angels') or venture capital funds. The Commission estimates that there are perhaps 20 000 firms at the most in the whole of the European Union which might go on to have their shares traded on a stock market at some point. They are, however, the firms that hold the promise of enjoying the highest rates of growth and creating significant new employment, good reasons for the Commission to have devoted such a degree of attention to their financing needs which have historically been less well catered for in Europe than in the USA.

2. Summary of the Commission document

2.1. The main objectives of the communication are to explore the potential barriers to the admittance to trading on capital markets of the shares of SMEs; to start a European-wide debate on the appropriate conditions for access to equity finance; to describe, and draw attention to the progress made by various initiatives to create new financial markets in the European Union such as 'EASDAQ' and 'Euro-NM'; to outline the actions the Commission is currently taking and intends to take in the future to overcome the barriers to the development of SME-orientated capital markets and ensure their smooth operation.

2.2. The communication identifies two main areas creating potential barriers to the development of these capital markets. The first relates to the attitudes, capacities and constraints originating within small and medium-sized enterprises themselves. In particular, the attitude of SMEs towards their financing, their expertise or lack of it in financial management, and the burdens which arranging an introduction on a stock market would place on them.

2.3. The second group of potential obstacles concern: the cross-border trading of shares on pan-European stock markets; particular currency related problems; differences in taxation and national accountancy practices; corporate governance and institutional investment. The Commission believes that in certain of these fields

the speedy and full application of existing European Union legislation would help. Finally, in the field of institutional investment and the free movement of capital, the Commission maintains that failure to remove discriminatory national restrictions could make the taking of infringement proceedings necessary.

3. Detailed comments on the communication

3.1. Introduction

Other than for the comments set out in section 1 of this opinion, the points made in the introduction are accepted.

3.2. Further progress in the development of SME capital markets in the European Union, and their prospects.

3.2.1. A number of capital markets more attuned to the needs of innovative and rapidly-growing companies than have been traditional stock markets, now exist in Europe. Two, EASDAQ and EURO.NM, have pan-European ambitions. The London AIM (Alternative Investment Market) currently appears to be more focused upon the United Kingdom.

3.2.2. The growth rates of companies seeking admission to these markets is likely to be far in excess of the 10 % cited in the second paragraph of page 2 of the Communication. When comparing sales in 1996 and 1997, three-quarters of the companies whose shares traded on the EASDAQ market experienced a growth in excess of 25 %. Nearly a third of all companies on the market showed a turnover increase of over 100 %.

3.2.3. The long-term success of these markets will depend on their admitting a sufficient number of innovative companies, as it is these who appear to particularly excite the interest of investors. Any initiatives to increase their numbers, particularly in fields such as biotechnology, would make a welcome contribution. Unfortunately, there is no completely reliable method of determining at an early stage which are the companies that are likely to grow rapidly and be successful in the long-term. What largely determines their eventual ability to attract external investment is the perceived quality of their management.

3.2.4. Efforts need, therefore, to be concentrated on encouraging more business start-ups and seeing that they have access to finance, together with timely advice, so improving management quality and reducing the current high rate of mortality, some 50 % within the first five years of existence according to the European Observatory for Small Business. There are already good schemes in operation within the EU which can provide

guidance when policies are being developed. One example is the 'Artigiancassa' financial facility in Italy.

3.2.4.1. Given that undercapitalization and inability to provide security for loans is common among new firms:

A loan guarantee facility for SMEs, with special arrangements for very small 'micro' loans, should be made available in all Member States. The means of delivery, whether through state organized schemes, or other mechanisms such as Mutual Guarantee Systems, would be for decision in the light of national circumstances. Given that many small enterprises do not adopt a limited company format, special attention needs to be given to their specific needs.

Guarantees might not need to have as high an upper limit as in the US Small Business Administration scheme (\$ 1 million, of which \$ 750 000 is guaranteed) but at least ECU 250 000 would seem appropriate. Properly run, these facilities should not be a great burden on the public exchequer. Loan defaults in the US are currently less than 2,5 % of the total guaranteed and fees charged to firms for the granting of loans would offset part of this. Based on the experience of Mutual Guarantee Systems, the so called 'Multiplier', which enhances the ability of consortia to underwrite loans, has a multiplier of 22. That is, with a 50 % guarantee and a hypothetical venture capital fund of ECU 100, it would be possible to grant a loan of ECU 4 400. This figure allows for an insolvency rate of 4 % and the cost of investigating credit worthiness.

3.2.4.2. A major reason for business failure is a lack of knowledge of the relevant sector and a lack of business and financial management skills. There is nothing magic about these and they can be imparted in the majority of cases providing the person giving the advice has the necessary business experience and counselling skills. The pity is that many of those most in need of advice seldom seek it.

Each Member State, with the cooperation of the appropriate private-sector organizations, should ensure that business mentoring on a one-to-one basis is available at reasonable cost to any self-employed person or SME proprietor or manager. Mentors should have had business experience and be members of a professional body (which could include national SME and craft organizations) able to ensure they receive proper initial and on-going training. Consideration should be given to making the seeking of

such assistance a condition for receiving a loan guarantee.

Whilst the establishment of such a structure will not be as cheap as in the case of the SBA Score programme, where mentors only receive out of pocket expenses, it need not be overly expensive. In the last full year of the United Kingdom Small Firms Service (1990), keeping 300 advisers in the field only cost around ECU 14 million. The attendant reduction in both business failures and ill-advised start-ups makes the establishment of such structures a first-class national investment. There is reason to believe that by extending this system, the business failure rate will fall considerably, perhaps even by 80 %.

3.2.4.3. Not all firms cease activities because of lack of finance or mismanagement. An unquantifiable number do so because they find regulatory burdens imposed upon them impossible to cope with. There must also be many who are deterred from starting a business because of the bureaucratic procedures involved. The European Commission and Member States recognize this, but action to address the problem needs to be speeded up.

In the USA new firms only need to make arrangements to pay social security contributions and register with the tax authorities. Member States should reduce start-up formalities to what they consider to be the bare essentials in a similar manner, while bearing in mind the different economic and social structures. They should also consider raising VAT registration exemption levels, as already permitted by the VAT Directives, so assisting the very small business.

The administration of firms paying very small amounts of VAT costs more than it yields, so this reform would have no budgetary cost, whilst giving new firms a breathing space before having to absorb what is for many a complex system, requiring them to pay for external advice in order to ensure compliance.

3.2.4.4. Unless considerable amounts of noise or harmful emissions are concerned it is easy to found a business in the USA and operate it from home. It has to be wondered whether firms such as Microsoft and Dell Computers, which both started in a garage, would ever have commenced operations in some parts of Europe.

There is a need for public authorities to pay more attention to substance rather than form when authorizing new start ups, and to simplify authorization procedures. Restrictions on starting a business

and operating it from a private home for a limited period should be relaxed where there is no question of public nuisance or inconvenience or harm to the environment or employees.

3.2.4.5. If a major objective is to encourage the creation of innovative firms, the US experience that their growth appears to take place most readily around universities or research centres needs to be noted. There are examples of such centres in Europe already, but not enough, neither are they yet sufficiently large.

Top priorities should be the encouragement of the establishment of more high technology business parks around universities and other research centres and the improvement of the overall quality of those that already exist, thereby increasing the chance of commercial application of scientific discoveries. In each case it is also vital to provide back-up, in the shape of venture capital funds.

There is a need for the Commission to examine current best practice in the Member States and to disseminate the results in order to encourage further developments.

3.2.4.6. US academics seem far more willing to establish or participate in businesses than their European counterparts. One reason may be a greater availability of early stage and seed capital (a gap now being addressed following the Heads of Government Extraordinary Council on Employment in Luxembourg), coupled with expert business advice. Another one may be cultural, with far more emphasis being placed on academic rather than worldly success in Europe.

An examination is needed into methods which would help make academics more aware of the possibility of developing commercial applications of their theoretical knowledge, particularly within a business in which they have a stake. It may be necessary to consider incentives, such as the provision of more funds for pure research to the departments of academics who respond positively. Member States should also loosen traditional restrictions which prevent academics from undertaking any type of commercial activity.

There will be practical problems to overcome, not least defining the ownership of intellectual property, particularly where the centres of learning involved are wholly funded by the state. Nevertheless, the existence of difficulties should not be made an excuse for inaction.

3.2.4.7. Another reason for less commercial application of research in Europe may be that it is

apparently easier and cheaper to patent discoveries in the US.

The intention of the Commission to produce early draft legislation aimed at creating a true European patent is warmly welcomed. The Council and the European Parliament are urged to rapidly consider and approve this legislation, along with the equally important draft Utility Model Directive.

3.2.4.8. In the more enterprise-oriented areas of the United States, entrepreneurs who go bankrupt are not made to shoulder so much blame. The federate state laws allow them to learn from their mistakes and to get their business back on its feet or start a new one.

Member States should examine their national legislation on bankruptcy and seek to amend it in order to limit the number of unnecessary bankruptcies and to give a greater chance of starting again to those who, though unsuccessful, acted in good faith.

3.2.5. Another factor which will determine whether or not these markets are successful is whether there will be sufficient interest from investors. So far, levels of interest by institutional investors appear encouraging, more questions arise in respect of private investors. One reason for the lack of interest in equities by individual European investors, referred to in the seventh paragraph of Section II, is certainly cultural. Europe is not an enterprise culture in the same way as is the USA. When it comes to investment, the security provided by fixed-interest investments has been traditionally more important than the potential for higher returns offered by equity investment. It can be anticipated that the creation of a single European currency will tend to change investor attitudes. Rates of return on government securities will tend to be lower, as will the amounts issued. This means that investors will need to consider alternatives.

3.2.6. Already, investor attitudes do seem to be changing and another factor in the apparent lack of interest in equities may have been a lack of opportunity. Recent evidence, including the success of privatization issues, shows that there may be a more pent-up demand than estimated. In any case, the majority of smaller private investors are likely to hold their stakes in equities indirectly, through collective investments and those made by insurance companies and pension funds. It is important that these institutional investors are not restricted in their investment policies by outdated national rules, which will become increasingly irrelevant in a single currency zone (see also point 3.4.1.2.5).

3.2.7. Growing companies are capital hungry and lack of funds frequently inhibits their rate of growth in Europe. This is less so in the USA where a greater variety of sources exist. In the USA informal private investors or 'Business Angels', who are frequently successful businessmen, are prepared to invest relatively substantial sums (said to be in the range of \$ 50 000 to \$ 100 000) in businesses with the potential for fast growth. In addition, the advice and contacts they can bring to the company are said to be as valuable as the money they invest. An encouragement they receive is that they are allowed to offset losses against tax payable on other activities under defined circumstances. Similar investors do appear to exist in Europe, but the picture is uneven and potential investors complain that it is difficult to locate suitable companies. The US Small Business Administration has recently tried to improve links in the US by establishing a national data base promoting contacts.

The Member States should examine how informal private investment might be encouraged, both through tax incentives and the establishment of contact networks, where these do not already exist.

3.2.7.1. When the informal private investor's participation is no longer sufficient, Venture Capital Funds should theoretically take over for the higher-growth firm, effectively bridging the gap until it has reached the point where a stock market floatation is possible. In practice, even in the USA, this only happens in the case of a very small number of companies as median investment sizes become increasingly large. The US Small Business Administration has endeavoured to fill some of the gap by providing guarantees for smaller venture capital investments.

The Council having acknowledged that a problem exists (Point 48 of the Luxembourg Conclusions), the Commission has reacted by tabling a draft proposal for a Decision permitting such guarantees to be given. This proposal will be the subject of a separate Opinion of the Economic and Social Committee.

3.2.8. A noteworthy feature of the American scene is the number of small companies that grow to medium-size. One reason may lie in the field of capital taxation, which was reduced in the US in the 1980s. Owners of a business are more willing to take the risks involved in growing rapidly if they are allowed to keep a substantial part of the results of success should they eventually float the company on a stock exchange or sell it. If they do not wish to do either, they may be interested in handing

it down to younger members of the family without incurring succession duties which bleed the company of finance it needs for trading and funding further expansion.

Member States should examine the effects of capital taxes and succession duties on SME growth and introduce reforms where necessary. This is something which the Committee has advocated on a number of occasions.

It is after all the total yield rather than the actual rates of these taxes which should be important to governments.

3.2.9. Another necessity is the provision of high-quality information, particularly on new share issues, to investors. For larger share issues this is a complex but practical possibility, but for smaller offerings this is currently made difficult where cross-border issues are concerned by two main factors. The first is the absence of a common definition of a public offer within the European Union. The second the restrictive manner in which the mutual recognition provisions of the Prospectus Directive⁽¹⁾ are being interpreted by the Member States. They are frequently requiring translations of what are massive documents, together with a considerable amount of additional information, together with the placing of expensive advertisements in national newspapers. This is perfectly legal, but forces issuers of 'SME stocks' to limit an Initial Public Offer of shares to one Member State, relying elsewhere on private placements of shares with professional investors. In addition, the widely differing national rules on advertising effectively exclude many private investors, either through ignorance or because only a private placement is taking place in their country of residence. These two factors have the unfortunate result of restricting liquidity in the after-market and reducing share prices. Unless these difficulties are overcome it will be virtually impossible to tap the pool of funds and interest in the shares of innovative SMEs that potentially exists in Europe. Neither will it be possible for the SME capital markets to provide funding for Europe's future commercial and industrial 'champions' in the way they otherwise could.

3.3. *Potential obstacles to the listing of SMEs on stock exchanges*

Five questions are asked by the Commission in this section of the Communication. They are addressed in the same order.

⁽¹⁾ 89/298/EEC (Council Directive coordinating the requirements for the drawing-up, scrutiny and distribution of the prospectus to be published when transferable securities are offered to the public).

3.3.1. Does a sufficient number of SMEs exist in Europe which are suitable and ripe for a stock market flotation, and if so, how can these be identified?

3.3.1.1. It would appear from the partial studies made to date, and mentioned in the Commission's Communication, that sufficient firms with the willingness and the potential exist, but whether many are yet ready, or even aware of the opportunities presented by a stock exchange flotation is less certain. Given that firms tend to be reticent about revealing their affairs to strangers, and there being much less information available in the public domain than in the USA, it is difficult to think of methods by which they might be identified. Perhaps professional advisers (bankers, lawyers, accountants) and organizations (chambers of commerce, etc.) might be induced to help in the identification of firms who are potential candidates for flotation.

3.3.2. Are owners of SMEs which are ready for flotation willing to accept the possible diminution of control which a public share issue is often taken to imply?

3.3.2.1. If they are not ready to accept the reality that they will suffer some diminution of control and will be answerable to a wider public than hitherto, owners of SMEs should not contemplate a flotation. In many instances a reluctance to accept this reality is a generational problem. As many of those who founded businesses after the second world war retire, those who succeed them seem much more willing to give up a certain measure of control in return for external funding and the greater opportunities for expansion that follow. Also, those that have been in receipt of venture capital, or have attracted informal private investment, have already become accustomed to outside scrutiny of their decision-making. The Commission's idea that more companies might come forward if there were publicly supported campaigns to bring home to suitable SMEs the advantages of flotation is worthy of further consideration, although advice about the most suitable market for the company and similar matters, clearly fall within the remit of a professional adviser.

3.3.3. Do SMEs have the willingness and financial skills necessary to meet the high financial information and transparency requirements of a stock market quotation?

3.3.3.1. The need to produce a high level of financial information in preparation for a flotation can constitute

a barrier to proceeding. Considerable effort is required, which must be coupled with the high cost of diverting management time from the development of the company. These requirements are, however, inseparable from the transparency required by both investors and market regulators. It is difficult to see how the Commission suggestion of making private companies adopt similar standards of financial transparency would address the problem. It would merely place an additional burden on companies not seeking and never intending to seek external equity finance.

3.3.3.2. As to the other suggestion, that financial training being provided for companies preparing a prospectus, it must be pointed out that it is the sponsors to the issue, not the company, who prepare the prospectus and the reporting accountants who satisfy themselves as to the accuracy and presentation of the figures. It is to be hoped that companies who had reached this stage would also have developed a reasonable level of financial expertise. Otherwise, they are likely to encounter problems in meeting the on-going obligations of a public limited company.

3.3.4. Do SMEs have access to the necessary specialist advice and support necessary to prepare an Initial Public Offering of shares (an IPO)?

3.3.4.1. Potential IPOs valued at less than ECU 100 million could well face a problem in that they are unlikely to be of interest to the larger investment banking houses. In some of the main financial centres smaller investment services firms do exist who are prepared to bring issues of quite a low value to the market, but this situation is not universal and difficulties in obtaining proper support and assistance could arise. This is of concern because one important factor determining whether or not investors are attracted to an issue is the name of its sponsor. It is, after all, they who act as filter/selector, trainer/preparer and on-going hand holder of SMEs coming to a stock market. It is to be hoped that Economic and Monetary Union, along with increased competition in the financial markets, will lead to the appearance of more investment firms prepared to take on smaller share issues, perhaps even outside their main country of establishment.

3.3.5. Are SMEs willing and able to bear the high cost of the process of a stock exchange listing, in terms of both an IPO and of the ongoing costs of a listing?

3.3.5.1. Costs of an issue are high, although the figure of 20 % of the funds raised quoted in the Communication

must refer to a very small issue. NASDAQ indicates a typical cost might range from 7% to 9% of the value of the issue. To offer special help with the costs of an IPO to SMEs making very small issues would not be of particular assistance as fees are not paid until after the new capital has been raised. In any case, stock markets are unenthusiastic about such issues, which tend to be illiquid after flotation and on-going fees charged hard to justify.

3.3.5.2. Some efforts are being made to meet the requirements of smaller SMEs, only a minority of whom are going to be high technology companies with international ambitions and two seem worthy of mention:

- the Union of Chambers of Commerce in Lombardy, Italy, has just established a second-tier capital market for companies with a capital of ECU 0,5 million upwards;
- the Irish Stock Exchange launched its 'Developing Companies Market' in January 1997. This provides a capital market with less onerous conditions than those applying to stocks on the Official List, including a requirement for only one year's accounts rather than three. Also, only 10% of the shares have to be issued to the public.

More initiatives of this nature creating 'nursery' capital markets, which are comparatively cheap to join, would seem to be required.

3.3.5.3. In addition to the two examples quoted in the previous paragraph, there is the longer-established German 'Freiverkehr' over-the-counter market, on which the shares of some 500 companies are traded.

3.3.5.4. The creation of an Internet market might, for the shares of smaller SMEs in particular, be one solution worthy of encouragement. In June 1997 the Australian Stock Exchange (AS) announced its intention to launch an 'Alternative Capital Market' in 1998 on which unlisted companies of any size would be able to seek investments via the Internet. The AS calculates that there are about 1 million SMEs in Australia, of whom 10% might have real potential for growth and 2% interested in seeking outside equity capital. Companies seeking to join the market would have to make use of 'sponsors' approved and supervised by the AS, who

would have to vet the information posted on the Internet by their client companies. Some mandatory information would have to be included, but nothing as complex as a prospectus would be required.

3.3.5.5. In the USA some companies are beginning to make offerings of shares via the Internet. A prospectus has to be produced and filed with the Securities and Exchange Commission but the companies themselves set share prices, leading to a lack of transparency in the after market. So far, it would appear that the majority of shares issued by this means have been sold to investors located in fairly close geographical proximity to the company.

3.3.5.6. A rather more sophisticated new form of issue, 'Public Venture Offerings', aimed at medium-sized companies, is now being offered in the USA, also via the Internet. Typical amounts raised are between \$ 5 million and \$ 10 million. A prospectus has to be filed with the Securities and Exchange Commission and with the regulatory authority in each of the States in which stock will be offered. The offer can then be advertised without restriction and be subscribed to by up to five institutional and an unlimited number of private investors. Stock cannot be traded for a period of 18 months from the date of issue. This form of funding is hard to tap, possibly because of its newness. Out of 2 000 firms expressing interest, one investment firm only agreed to launch offerings for four. Nevertheless, this appears to be a financing instrument with potential.

3.3.5.7. One problem to be faced if similar developments are to be encouraged in Europe is that of adequate regulation and the avoidance of fraud. Even the US Securities and Exchange Commission is not yet in a position to issue a set of rules, meaning that it may well fall to the Commission to be the first to comprehensively face this issue, hopefully establishing a framework of rules within which a meaningful, transparent and honest market in the shares of SMEs may develop.

The positive efforts made by the European Commission in the field of electronic commerce are acknowledged and supported. Building on this, the European Commission and the Member States are asked to launch consultations, preferably maintaining liaison with the US Securities and Exchange Commission, in order to devise a framework of rules appropriate to cover securities offered to investors by means of the Internet.

3.4. *Potential barriers to the cross-border trading of shares on SME capital markets*

3.4.1. Points raised by the Commission

3.4.1.1. Currency-related problems

The Commission view that these can only be solved by the introduction of the euro and the consequent impetus to cross-border trading in securities is endorsed. This will of course depend on the number of Member States participating from the outset and cannot be viewed in isolation from the performance of the EU economy.

3.4.1.2. The regulation of securities trading at the EU level

3.4.1.2.1. The European Union has some 18 equity markets and 18 regulatory organizations. The USA has three principal or 'national' stock markets, all highly efficient and doing a good job for investors and companies. Since 1996, when Congress passed legislation which overrode State regulations where stocks traded on these markets were concerned, they have just one regulator, the Securities and Exchange Commission. At present, the fragmented European regulatory structure, together with the investment firms operating within it, cannot compete effectively with the US model.

3.4.1.2.2. Currently, EU legislation on financial services permits the free movement of capital and provides for the right of establishment. What is missing is any consistent interpretation of the rules by national regulatory bodies. This, together with the inconsistent manner in which the options provided for in financial services legislation have been exercised at the national level, are possibly the most fundamental problems remaining in relation to the organization and operation of stock markets in the EU. The single currency alone will not provide the solution — although it will be a start — as its full benefits will not be felt within the financial services sector under the current legislative and regulatory regime.

3.4.1.2.3. Particular problems exist in terms of the provisions of the Prospectus Directive when companies seek admission to a market outside their home Member State. The directive does not provide for the automatic mutual recognition of a prospectus prepared under the provisions of Article 12 in order to gain admission to regulated markets, even though this has been vetted by a competent authority. Some authorities are prepared to issue a certificate certifying they have vetted a

prospectus, others will not. Indeed the current patchwork of national regulatory arrangements, reflecting the different ways in which certain of the options contained in its articles have been perfectly legally transposed into the laws of the Member States does not make achieving mutual recognition under the terms of Article 21(1) of the Prospectus Directive as easy as it should be.

3.4.1.2.4. As pointed out in point 3.2.9, major difficulties also arise because of the requirement by some competent authorities for the translation of the prospectus and the addition of additional information specific to that Member State concerning local income tax aspects, financial organizations retained to act as paying agents for the issuer in that Member State, and the way in which notices to investors have to be published. In practice, they are placing an almost impossible burden on smaller issuers.

3.4.1.2.5. To allow such anomalies to remain will undermine some of the benefits of a single European currency as well as placing European capital markets at a disadvantage compared with those in the USA. Capital markets in the USA are not only efficient, they offer choice to companies and broaden opportunities for investors. The fundamental reason appears to be the regulatory climate, which ensures transparency and fosters competition. This in turn increases market size and reduces costs, both for investors and companies raising capital. Even though the European Union now has an overall framework of rules governing financial markets and services these are extremely complex, are supplemented by specific national provisions and policed by national regulators.

The European Commission and the Member States need to consider whether the present legislative and regulatory regime encourages the deepening of capital markets which is now essential and take appropriate steps to amend it, particularly the Prospectus Directive. This would not need major change to turn into an effective instrument, but would require some of the Member States to forego some of the legislative options they now enjoy, which were framed at a time when financial markets were far more national in character than they are now becoming. Whilst a European regulatory body, along the lines of the Securities and Exchange Commission, is unlikely to be created for the foreseeable future,

greater efforts are needed to ensure that enforcement at the national level is more coherent than is now the case.

3.4.1.3. Differences in national laws and practices

3.4.1.3.1. Taxation

Whilst the Commission is correct in saying that double taxation agreements exist in most instances, this is not the case for all Member States, with two being particularly deficient in this regard. Nevertheless, it is apparently the lack of information about national peculiarities rather than the differences themselves which cause problems.

This deficiency is something that the Commission might consider addressing through the drawing up of a comprehensive guide, or encouraging its production.

3.4.1.3.2. Accounting standards

The Commission view that these do not create a major problem is endorsed, although it would be helpful to analysts, who are the source of much public information on companies, if more accounts were prepared in accordance with international accounting standards. This is, however, something for stock exchanges to deal with through internal rules, not the European Commission. For this to work effectively, however, some Member States will have to amend national legislation, as already agreed in principle, in order to permit companies to use international standards. It is understood this is something they have undertaken to carry out and they are urged to do so speedily.

3.4.1.3.3. Corporate governance

3.4.1.3.3.1. A Europe-wide debate on what would be a necessary level of corporate governance standards appears to have value, but there must be doubts about any solution based on legal provisions, particularly given the difficulty in framing either a directive which could gain agreement in the Council, or sets of national rules that would be at all coherent.

3.4.1.3.3.2. An initial difficulty is to adequately define corporate governance. The definition adopted by Ernst & Young in a report drawn up for the Commission as: 'all the rules on functioning and control that govern corporate existence in a given historical and geographical framework' is extremely broad. An attempt to translate this into legislation, particularly at the European level given the under developed nature of even the most basic concepts of corporate governance in some Member States, could prove an extremely complex undertaking. A danger is that the flexibility management needs in a

fast changing business environment would be unnecessarily restricted, further handicapping Europe in its attempts to compete with the rest of the world.

3.4.1.3.3.3. Even codes of conduct have to have an element of flexibility if they are not to prove unduly onerous for the smaller private company. One European stock market already lays down certain basic principles of corporate governance which companies whose shares are admitted to trading have to meet and continue to meet:

- the Board of Directors must have at least two independent members (which excludes all executives or employees of the company or its subsidiaries, a shareholder with a beneficial interest exceeding 20 % and any individual having a relationship likely to affect their independence of judgement);
- a Remuneration Committee, composed entirely of independent directors and operating in line with the best international practices when setting remuneration and incentive packages for directors and executives, must be established;
- an Audit Committee, with a majority of members being independent directors, must also be created and maintained;
- all related party transactions must be reviewed on an on-going basis, using a body with an independent majority, such as the Audit Committee, which should also review situations where possible conflicts of interest appear to arise.

3.4.1.3.3.4. If other European stock exchanges were to make similar binding rules, corporate governance problems in respect of public limited companies, at least as far as the overall conduct of executive directors was concerned, would be largely overcome. Other problems may manifest themselves in the future. Given the relative newness of this subject, there could be merit in adopting a step by step approach, only attempting to deal with abuses as they arise, preferably by means other than legislation.

3.4.1.3.4. Institutional investment

Two fundamental reasons for a lower volume of funding available for venture capital investment in Europe is that there are less fully-funded pension schemes in existence and where they do, considerable constraints on their investment policies exist in some Member States. It is believed that the creation of more such schemes will become essential given the demographic problems facing Europe in the next century and in order

to maximize their performance these funds will need to be able to obtain the higher returns obtainable from making significant venture capital investments. The Commission position, underlying the importance of institutional investment for the success of these markets and the need for the removal of outdated and unnecessary restrictions on investment by pension funds, is endorsed.

Pension funds should, subject to proper safeguards which are strictly supervised, have freedom to devise investment strategies which are in the best interests of the members of such funds.

4. Other significant points requiring consideration

4.1. *The restricted concept of the 'Regulated Market'*

4.1.1. The legal concept of the 'Regulated Market' only applies in the case of the Investment Services and Capital Adequacy Directives, not to any of the other EU directives on financial services. This has a number of potential consequences:

- i) It would appear that shares admitted to trading could actually be classified as unlisted securities under certain circumstances, even though they had to meet standards of regulation and transparency as strict, or stricter, than those imposed by an 'official' stock exchange.
- ii) Should the classification of 'unlisted securities' be applied, financial services firms may have to accord them a nil weighting when calculating solvency ratios, so restricting institutional investment.
- iii) Investment firms dealing in UCITS (Undertakings for collective investments in transferable securities) may, under the provisions of national law following on from Directive No 85/611/EEC, have to carry out a 'due diligence' investigation of the regulated market concerned before making any investments in shares traded upon it.
- iv) Directive No 88/627/EEC on the information to be published when a major holding in a listed company is acquired or disposed of does not apply. This could lead to a situation where a substantial holding could be built up in a company traded on these markets, with the acquirer having no obligation to inform either the company or the market concerned.

4.1.2. It is presumed that the Commission regarded the designation 'regulated market' to carry with it an

assurance of the reliability of such a market. When coupled with the stringent rules imposed on firms whose shares are traded upon it, it is clearly inappropriate for rules to apply, or be judged by regulators to apply, which are more stringent than those applied to 'official stock exchanges'. The Commission is asked to examine how this anomaly might be overcome.

4.2. *The US experience*

4.2.1. Whilst there are major economic and social differences between the USA and the European Union, there appear to be lessons to be learned from the former which could improve the situation of SMEs, particularly financially, but also with regard to management consultancy. This could assist the creation of more new firms and therefore jobs.

4.2.2. To adopt new initiatives or adapt existing structures in the light of those lessons would not mean that the whole of Europe would become a hive of entrepreneurial activity. Many areas in the USA certainly do not warrant that description. Growth in innovative industries and services (demarcating the two becomes increasingly difficult) seems to be concentrated in centres of excellence, largely based either around academic institutions or in areas such as that west of Washington DC.

4.2.3. Part of the reason for the high levels of new firm creation in the US is cultural, with a spirit of entrepreneurship, independence and flexibility more common in the population. Trying to inculcate a more entrepreneurial spirit in Europe through the educational system, something which the Commission apparently intends to foster, will take time, at least a generation.

4.2.4. Public policy in Europe must be directed to facilitating the creation of new businesses and ensuring that there is a lower death rate among firms in their first five years of life than in the USA and that more are given the opportunity to grow to medium size.

4.2.5. The objective must be to give SMEs, particularly those that are new, access to assistance. How it is delivered, whether through government agencies, contractors, or otherwise is a matter of choice for Member States, preferably after consultation with the social partners. They should, however, ensure that the 'displacement effect' is kept to the minimum. That is, assistance should not be granted in such a form that it provides an unfair short-term competitive advantage.

5. Analysis of the Commission's conclusions

5.1. It is impossible to challenge the Commission conclusions as set out in the Communication, except to say that the process of achieving the objective of a genuine SME equity culture in Europe may be a long process. This will be less so given a new and positive commitment from legislators and national regulatory authorities to reduce unnecessary barriers. In particular, it is essential that innovation in the securities markets is not retarded, or even stifled, by regulatory problems. It must always be borne in mind that the main purpose of securities' laws and that of regulators is to:

- regulate the relationships between share dealer and client so that the latter is not treated unfairly or exposed to the risk of fraud;
- protect investors more generally against fraud and market manipulation.

5.2. It is not to try to guard them against market risk or to protect specific national market interests, something that will prove increasingly difficult to achieve in today's global financial markets.

5.3. The primary economic role of the equity markets is to channel passive savings into productive investments. What the investment firms cannot do currently is to ensure the optimum level of liquidity in the market because of the restrictive attitude of national regulators and legislators in regard to the approval of prospectuses, the definition of a public offer and what qualifies as a 'Euro-security' (see Article 3(f) of the Prospectus Directive 89/298/EEC). The Commission should ensure that this Article of the Directive is correctly implemented at the national level.

5.4. What Europe needs in order to maximize levels of firm and job creation, aided by efficient financial markets as in the USA, but maintaining its distinct social identity, is:

- a greater flow of good companies seeking admission to stock markets. This means increasing total business numbers; making sure they do not suffer shortages of finance; have access to informed busi-

ness advice; do not have their progress retarded by unnecessary regulatory burdens; and can legally protect their innovations more easily;

- the encouragement of a greater flow of investment into equity capital at all stages of company development;
- the availability of 'nursery' equity markets, probably at the regional level, from which companies can move to larger national and pan-European markets when they have reached an appropriate stage of development, as well as the utilization of the possibilities offered by the Internet; and,
- the reform of European securities regulation in order to promote greater transparency and competition and to allow the efficient operation of a truly pan-European financial services sector.

5.5. It is recognized that in each instance some of the Member States may already have perfectly adequate mechanisms to address the problem raised, whilst more are likely to be introduced as a result of the Extraordinary European Council on Employment held in November 1997. The objective of these recommendations is to encourage the development of an overall framework that facilitates SME development and the creation of new jobs in all parts of the European Union through filling the gaps in the support framework that remain. This, in turn, will have positive effects on overall economic prosperity in the European Union, considering that most companies are SMEs. The form in which measures are introduced will depend on the traditions and structures in each Member State.

6. Additional comments

6.1. The Committee welcomes the positive policy developments outlined in the Commission Communication 'Risk Capital: A Key to Job Creation in the European Union' ⁽¹⁾. It also notes that the vast majority of suggested initiatives follow the same approach as in this Opinion. In endorsing the views contained therein, the Committee asks to be consulted on the continued evolution of policy in this area.

⁽¹⁾ COM(98) 522 final.

Brussels, 27 May 1998.

The President
of the Economic and Social Committee
Tom JENKINS

Opinion of the Economic and Social Committee on the 'Proposal for a European Parliament and Council Directive amending Council Directive 92/23/EEC relating to tyres for motor vehicles and their trailers and to their fitting' ⁽¹⁾

(98/C 235/05)

On 6 January 1998 the Council decided to consult 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 6 May 1998. The rapporteur was Mr Bagliano.

At its 355th plenary session (meeting of 27 May 1998), the Economic and Social Committee adopted the following opinion by 101 votes in favour, with 2 abstentions.

1. Introduction

1.1. The Commission's proposed directive is intended to fill a gap in the measures so far adopted against noise caused by road traffic.

1.2. Directive 70/157/EEC on the permissible sound level of motor vehicles is set out in such a way as to draw attention to — and therefore limit — only the noise arising from the exhaust and the mechanical parts of vehicles. At that time these were indeed the main sources of traffic noise.

1.2.1. The tightening up of technical requirements imposed by subsequent amendments to the above Directive have resulted in a considerable reduction in the noise from these sources, but have at the same time drawn attention to the problem of noise produced by the contact between tyres in motion and road surfaces.

1.3. This was brought out by Article 4 of the most recent amendment to the aforementioned Directive 70/157/EEC (Directive 92/97/EEC of 19 December 1992) in which the Council delegates to the Commission the task of drawing up a proposal designed to limit the noise produced by tyre/road surface contact, while taking safety requirements into account. The draft directive under consideration fulfils this mandate.

1.3.1. The present proposal is for an amendment to Directive 92/23/EEC relating to tyres for motor vehicles and their trailers and to their fitting; that Directive did not, however, cover noise. It defines both the method of measurement of the tyre-road noise and the maximum permissible level for different types of tyre.

2. General comments

2.1. The scope of the proposed directive covers all types of tyres fitted to cars (category M1 vehicles) and to both light and heavy commercial vehicles (categories M2, M3, N1, N2 and N3) and their trailers. It excludes

vehicles designed for uses other than the transport of people or things, which can only occasionally use the road infrastructure (e.g. farm tractors).

2.1.1. In view of this very wide scope, the Commission has developed a common method of measurement but proposes maximum permissible noise levels which are differentiated by category of vehicle. Within each category, these levels are linked:

— for passenger cars: to the nominal rim size of the tyre (thus taking account of the constraints imposed by roadholding and special uses considerations);

— for commercial vehicles: to the specific use category of the tyre (e.g. normal, for snow conditions, or special).

2.1.2. This represents an attempt to define requirements designed to limit the tyre-road noise while respecting safety considerations.

2.1.3. However, the noise levels corresponding to different types of road surface (or indeed to different atmospheric conditions) for the same type of tyre do not fall within the scope of the proposed directive. Here the Committee would point out that the 12th recital of Directive No 92/97/EEC of 19 December 1992 explicitly states that 'it is necessary to continue studies and research so as to be able to ascertain numerical indices in order to establish objective criteria for road conformity'.

3. Timetable

3.1. The draft directive provides for these requirements to come into force on 1 October 2001. This would apply both to new types of tyre brought onto the market and to new vehicles, which will have to be fitted only with tyres conforming to the said requirements.

3.2. From 1 October 2005 onwards all tyres brought onto the market will have to conform to the requirements of the draft directive.

⁽¹⁾ OJ C 30, 28.1.1998, p. 8.

3.3. Still excluded from the draft directive's provisions are:

- tyres intended to be fitted to vehicles registered for the first time before 1 October 1980;
- spare tyres intended for temporary use, tyres whose speed rating is less than 80 km/h, and tyres whose nominal rim diameter does not exceed 254 mm.

4. Comments

4.1. The method of measurement involves checking the tyre-road noise at a normal speed of 80 km/h while the vehicle is freewheeling in neutral on a standardized road surface.

4.1.1. The measures to be adopted to meet these requirements will therefore have their optimum effect in reducing noise due to road traffic in extra-urban areas and in freely moving traffic conditions.

4.1.2. However, the tyre noise during acceleration or braking — conditions which are more frequent in urban or congested traffic — will not be tested. The Committee also acknowledges that there is at present no established testing procedure to solve this problem, important though it is.

4.2. Technical solutions required to ensure tyre performance for special uses, such as on snow-covered or excavated roads, justify the higher limit values for noise set by the draft directive.

4.2.1. Differentiated limits are also justified for passenger car tyres, whose characteristics must be compatible with the performance of the cars to which they are fitted, in order to ensure maximum driving safety. The Committee agrees with this approach.

4.3. The proposed noise levels are well-balanced in that, while they require a considerable effort on the part of the tyre industry, they are industrially achievable in the timescale envisaged.

4.3.1. These levels also meet the expectations of the public, who wish to see action to reduce the noise generated by road traffic; they make a further contri-

bution to the improvements already achieved by the automobile industry in this field.

4.4. The dates of entry in force of the requirements in this draft directive are consistent with the periods needed by the tyre industry to adapt to them.

4.4.1. However, the Council will have to check with the industry on the availability of types of tyre already conforming to these requirements for all models of vehicle to be produced in 2001 — the deadline by which only tyres complying with the limits in this draft directive may be fitted.

4.4.2. The Committee thinks it realistic to provide for a grace period of at least two years (i.e. until 2003) for newly registered vehicles (old models), while 2001 remains the reference date for new type approvals (new models) alone.

4.5. Also important is the Commission's statement that these requirements are a first step in combating noise produced by moving tyres on road surfaces, and that they will have to be reviewed later in the light of their effects — both on the market and on the environment.

4.5.1. This statement — in the Explanatory Memorandum — should, however, be included also in the preamble to the draft directive itself, as 'whereas' (6):

'Whereas the requirements intended to reduce the noise arising from contact between tyres in motion and road surfaces constitute a first step in the fight against this source of noise; whereas they must subsequently be reviewed in the light of their effect on the market and the environment, taking account of the ever-growing impact which the type of road surface will have as a noise source.'

The proposed recital would supplement the 12th recital of Directive No 92/97/EEC, mentioned in point 2.1.3 above.

5. Conclusions

The Committee endorses the objective of the proposed directive, and recommends in particular:

- that account be taken of the comment in point 4.4 above;
- that more emphasis be placed, in a suitable 'whereas' of the preamble, on the need for a review of the effectiveness of the measures adopted.

Brussels, 27 May 1998.

*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 approximating the legal arrangements for the protection of inventions by utility model' ⁽¹⁾

(98/C 235/06)

On 13 January 1998 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 6 May 1998. The rapporteur was Mr Ataíde Ferreira.

At its 355th plenary session (meeting of 27 May 1998), the Economic and Social Committee adopted the following opinion by 102 votes to 2 with 3 abstentions.

1. Introduction

1.1. The present opinion concerns the Proposal for a European Parliament and Council directive approximating the legal arrangements for the protection of inventions by utility model, submitted by the Commission ⁽²⁾.

1.2. The proposal follows upon the Green Paper: The protection of utility models in the single market ⁽³⁾ and the relevant ESC opinion ⁽⁴⁾.

1.3. This is therefore a particularly painstaking legislative process, involving the different competent institutions and a number of other concerned organizations.

1.4. From the outset, the Committee would stress the importance of utility models for technological and industrial innovation, particularly for SMEs and, in this light, for EU development.

2. The Commission proposal — general comments

2.1. The Commission proposal is based firstly on a number of general assumptions, and secondly on a survey of actual utility model protection in several Member States.

2.2. The first of the general assumptions is connected with the idea that in this field, 'the intellectual property rights conferred by the Member States can ... be used to hinder the free movement of goods' ⁽³⁾, and is echoed in

Treaty Article 3(f) and (h), opening the way for the approximation of law which is called for in the proposal.

2.3. For this reason, the Commission has quite rightly selected Treaty Article 100a as the legal basis for the proposal.

2.4. The Commission also refers to the need to take action 'to make the free movement of goods resulting from minor technical inventions in the Community more transparent and prevent differences between national laws or the lack of such laws from causing distortions of competition' ⁽⁵⁾, and to 'improve the legal environment for Community firms, engaged as they are in an ongoing process of innovation and adaptation, and thus enhance their competitiveness in the world market through the protection of their inventions by utility model — a device particularly attuned to serving the needs of SMEs' ⁽⁵⁾.

2.5. On the basis of the survey mentioned in point 2.1 above, the Commission concludes that there is 'a real need for the protection of inventions by utility model in the Community ... patent protection being unsuited to certain types of invention such as minor technical inventions' ⁽⁶⁾.

2.6. The Committee has already had occasion to comment on Commission studies and surveys on the subject, and maintains its reservations that they are not 'as totally reliable as their authors appear to claim' ⁽⁷⁾.

2.7. In connection with the underlying assumption of this legislative process — in brief, that rules protecting intellectual property other than by patent are absolutely essential — the Committee would repeat the view expressed in its earlier opinion, to the effect that 'the lesson which must perhaps be drawn from the existence

⁽¹⁾ OJ C 36, 3.2.1998, p. 13.

⁽²⁾ COM(97) 691 final; OJ C 36, 3.2.1998.

⁽³⁾ COM(95) 370 final.

⁽⁴⁾ OJ C 174 of 17.6.1996.

⁽⁵⁾ COM(97) 691 final; OJ C 36, 3.2.1998, p. 3, point 3.

⁽⁶⁾ COM(97) 691 final; OJ C 36, 3.2.1998, p. 4, point 6.

⁽⁷⁾ OJ C 174 of 17.6.1996, p. 8, point 5.5.

of these “short term” national patents is that the priority need in Europe is to make patent protection more efficient (more rapid and less costly), rather than create complementary protection (utility model) at the Community level⁽¹⁾. In this respect, the Committee would highlight the Commission’s work in analyzing the patent protection system⁽²⁾. It should also be noted that the Commission is currently drawing up a communication on the Community patent.

2.8. Once again, the Committee would point out that this issue, of the need for arrangements which protect technical innovations, supplementary to patents for inventions, must be integrated into the EU’s RTD policy strategy.

2.8.1. It is therefore important to draw the appropriate conclusions from the experience of the EU’s main competitors, as the EU is lagging behind.

2.8.1.1. Examination of the US experience, where utility models are absent, would in fact point to ‘the need to make the patent system more efficient by reducing its known drawbacks, such as the length of time taken to examine applications and grant patents, and the cost’⁽³⁾.

2.8.1.2. On the other hand, as the Committee emphasized in its earlier opinion, the Japanese experience shows that utility models must always possess a three-dimensional quality and be of a significantly shorter duration than patents (six years instead of twenty).

2.9. The Committee warns that moves for legislative approximation in this field must always be justified on their own merits and not by virtue of shortcomings or contradictions in the patent process: these must be corrected or removed within the framework of that process, as appears to be the Commission’s aim in its green paper on the Community patent.

2.10. Independently valid arguments include the circumstances surrounding intellectual property protection, legislative safeguards against counterfeiting and, indirectly, the promotion of innovation and development at Community level, particularly given a world scene on

which the production cycles and lifespans of inventions are becoming ever shorter.

2.11. The Committee also stresses that any proposals for harmonization must first ensure harmonization of timescales and procedures: otherwise, harmonization of more substantive aspects will prove impracticable.

3. The Commission proposal — the legislative option

3.1. In its green paper⁽⁴⁾, the Commission set out the various possible types of action in this area, and concluded by selecting four options:

3.1.1. bringing current national systems into line and introducing a protection system in countries where it does not currently exist;

3.1.2. mutual recognition — once alignment has been achieved — of the national protection offered by Member States;

3.1.3. adoption of a regulation establishing a Community protection system and ranking above national systems;

3.1.4. a combination of different possibilities with, in particular, a directive harmonizing national protection rights, and a regulation establishing a single protection system.

3.2. The Committee notes that the Commission has restricted the present initiative to the first of these objectives (see 3.1.1 above), concluding that ‘harmonization will make it possible for equivalent national systems of utility model protection to coexist’ and that ‘a person applying for a utility model will be assured of finding an equivalent property right in the other Member States and will no longer come up against different sets of rules’⁽⁵⁾. The Committee would, however, highlight the need for such persons to file separate requests in each country in which they seek utility model protection for their invention.

3.3. The Committee believes that this objective cannot be met unless a system of mutual recognition of national protection by the Member States is consolidated at the same time. In the Committee’s view, it is essential that the plan to harmonize national legislation should ‘following effective harmonization, provide for a later stage of mutual recognition of national rights’⁽⁶⁾.

⁽¹⁾ OJ C 174 of 17.6.1996, point 5.3.3.

⁽²⁾ COM(97) 314 final — Green Paper on the Community patent and the patent system in Europe, and the relevant ESC opinion: OJ C 129, 27.4.1998.

⁽³⁾ OJ C 174, 17.6.1996, p. 4, point 2.8.

⁽⁴⁾ COM(95) 370 final, pp. vi *et seq.*

⁽⁵⁾ COM(97) 691 final, OJ C 36, 3.2.1998, p. 6, point 10.

⁽⁶⁾ OJ C 174, 17.6.1996, p. 11, point 6.11.

3.4. More generally, the Committee also wishes to underscore two basic ideas, already expressed in its earlier opinion on this question.

3.4.1. Firstly, there is 'the fact that some of the national systems, which the green paper lumps together under the label of "utility model", are actually none other than patent systems "without examination" (of novelty or inventive step), and thus essentially "registration" (rather than merit assessment) patents, albeit of shorter duration than normal patents (e.g. in Belgium, the Netherlands and France)' ⁽¹⁾, while retaining eligibility conditions for inventions which are very close to those imposed for patent protection.

3.4.1.1. In this regard, the Committee would repeat that utility models should be clearly distinguished as a separate entity under the overall umbrella of industrial property rights, and must not represent a safety-valve to make up for any shortcomings (cost, delay) in the patent system.

3.4.2. Secondly, the Committee points out that the objectives of the present draft directive — to boost the single market and remove distortions of competition — cannot be achieved through measures of this kind: they depend on deeper and, essentially, broader legislative harmonization.

3.4.3. The Committee therefore emphasizes that any future measures in this field must satisfy a variety of essential conditions:

3.4.3.1. at the level of the protection conferred: utility models must be seen as the most appropriate procedural means of protecting simpler inventions;

3.4.3.2. at the procedural level: protection by means of utility model must be secured swiftly and economically, since the level of legal protection conferred is incompatible with lengthy and costly procedures;

3.4.3.3. at the level of legal certainty: the degree of protection must be clear as regards both counterfeiters and well-intentioned third parties.

4. The Commission proposal — specific comments

4.1. Article 1

The Commission begins by defining the utility model as 'the registered right which confers exclusive protection

for technical inventions' ⁽²⁾, and then lists the names under which it is known in various Member States.

4.1.1. The Committee would point out that what is apparently a single concept in fact covers widely varying realities. According to the Commission itself, these should be divided into three distinct groups: this alone illustrates the need for a full and clear definition of the applicable rules. The list under Article 1 should therefore only appear as an annex to help clarify the internal rules which are to be harmonized, and should not actually define the utility model itself.

4.1.2. The Committee also draws attention to the narrow scope of the definition given, and recommends that if the present wording of Article 1 is retained, the concepts of 'inventive step' and 'industrial application' should appear directly. These are the decisive elements, as acknowledged by the Commission in Article 3.

4.2. Article 4

The Committee considers the wording of Article 4(d) to be too broad and therefore believes that, in line with the rules adopted for the European patent, exclusions should be limited to computer programs as such.

4.3. Article 5

In connection with the 'novelty' requirement, the Committee acknowledges the Commission's efforts to attune this concept to that of 'state of the art' (absolute novelty) and to make it practicable by providing clear and precise conceptual descriptions.

4.4. Article 6

Concerning the 'inventive step' requirement (again in relation to 'state of the art'), the Committee notes the introduction of 'particular effectiveness' and 'practical or industrial advantage' as conditions for granting utility model status. It should be pointed out that the aim here is to protect inventions designed for major practical applications, chiefly in the fields of mechanical engineering, the electrical industry, precision engineering, optics and car manufacturing. The Commission should work

⁽¹⁾ OJ C 174, 17.6.1996, p. 7, point 5.3.1.

⁽²⁾ COM(97) 691 final; OJ C 36, 3.2.1998, p. 32, 'Definitions'.

out a way of formulating this requirement which could provide the best guarantee of legal certainty both for the applicant and for the third parties concerned.

4.4.1. The Committee therefore emphasizes that utility model protection must be subject to verification of three essential requirements:

4.4.1.1. the novelty requirement, in the sense of absolute novelty, compared with the state of the art;

4.4.1.2. the industrial application requirement, taken in its widest sense;

4.4.1.3. the inventive step requirement, seen from the standpoint of either particular effectiveness (ease of application or use), or of practical or industrial advantage.

4.5. *Article 8*

In the Committee's view, the proposed wording does not properly address the need to regulate the payment of fees for renewal of utility models as set out in Article 19.

4.6. *Article 10*

The Committee believes it essential that, in addition to indicating how utility model protection is acquired, an indication of duration should also be compulsory, if it is granted temporarily.

4.7. *Article 12*

The Committee fully endorses the specific safeguards imposed on applicants regarding disclosure of the invention, since this description enables the expert (skilled in the art) to assess the practical applicability of the invention, where appropriate (see Article 24).

4.8. *Article 13*

The Committee must point out that the opportunity to 'restrict the number of claims'⁽¹⁾ — recognized by the Commission itself as appropriate — is lost. The Committee also considers that the Commission should clarify whether or not the Member States are barred from restricting the possible number of claims by applicants, or whether the only way of fleshing out the vague concept applied in Article 13 — 'strictly necessary having regard to the nature of the invention' — is by means of third party opposition to 'excessive claims'.

4.9. *Article 16*

The Committee believes that although the search report is offered as an option to utility model applicants, the circumstances in which it may be requested should be clarified. The possibility of such reports being used only by the most economically powerful applicants must be avoided. Also, for the system to remain viable, it should be clarified that this option needs to be limited to exceptional cases.

4.9.1. At the same time, the Committee would argue that the Member States should legislate at national level to make search reports compulsory in the case of legal proceedings invoking the rights conferred by utility models, as this would be justified in such cases.

4.10. *Articles 17 and 18*

The Committee considers that since the question of priority rights and internal priority concerns the effects of an application rather than the application itself, it should be dealt with in a separate section and not in those on applications and the effects of the model.

4.10.1. This is in fact one of the most important effects of the draft directive, since it grants the applicant a priority right to file a utility model application relating to a single invention in one or several Member States.

4.11. *Article 19*

The proposed duration of protection appears excessive given the data the Commission provides on the life-cycle of inventions, particularly when this duration is viewed independently of the economic exploitation of the invention. It should however be borne in mind that harmonization would reduce the duration of protection in certain Member States.

4.11.1. This point may give particular grounds for concern, considering that the applicant may easily obtain two successive two-year renewals up to a total of 10 years. It might be advisable to oblige the Member States to increase renewal fees after the six-year period.

4.12. *Article 20*

The scope of the exclusive rights granted, and the legal limitations on them, seem appropriate, although

⁽¹⁾ COM(95) 370 final, p. 73, fourth paragraph of (g).

allowing the Member States to impose further limitations might, to some extent, run counter to the intended aims of the draft directive.

4.13. *Article 21*

The legal precepts concerning Community exhaustion and international non-exhaustion of rights require no comment, since they are in accordance with Community legal precedent in this area.

4.14. *Article 22*

The Committee believes that the Commission should make it obligatory for Member States to deem a utility model ineffective, where a patent has been granted for the same invention.

4.14.1. This is the only way to ensure effective harmonization, since the consequences of this legislative option extend beyond the question of dual protection (cf. the rules on priority, for example).

4.14.2. It would also seem proper to 'oblige' applicants to retain patent protection only, since the greater costs involved would be offset by the specific features of this type of protection, particularly in terms of legal certainty.

4.15. *Article 23*

Further to the previous point and for the reasons already set out, the Committee considers that the list of causes of lapse of a utility model should include supersedence by a patent on the same invention. Moreover, it believes that non-payment of fees should not be deemed a cause for lapse, but simply a failure to meet the conditions for granting a utility model. However, this being understood, the Committee recommends that renewal fees be added to the list of fees given in Article 8(2).

Brussels, 27 May 1998.

4.16. *Article 24*

While endorsing the principles underlying the proposed text, the Committee urges that the wording be amended, particularly with regard to the paragraphs identifying the grounds for requesting revocation of utility models.

4.17. *Article 25*

Regarding the deadline for transposition of the proposed directive, the Committee would point out that transposition must depend upon harmonization of patent rights, since this clearly lies at the core of the entire question.

5. **Conclusions**

5.1. Utility models are an appropriate means of protecting industrial property and as such, contribute to EU development insofar as they boost investment in research and development.

5.2. The coexistence of different national industrial property protection systems by using utility models could prejudice the achievement of free movement of goods and generate distortions of competition.

5.3. Utility models are the ideal mechanism to protect inventions which cannot be patented. As such they represent a legal instrument particularly well-suited to SMEs.

5.4. The Commission's initiative appears capable of achieving the aims it proposes, although some technical improvements might be made, as mentioned in the present opinion.

5.5. The present initiative should also be viewed in conjunction with initiatives to regulate protection through the patent system, in view of the similarities existing between the two systems in question.

The President
of the Economic and Social Committee
Tom JENKINS

Opinion of the Economic and Social Committee on the 'Proposal for a Council Directive governing the tax treatment of private motor vehicles moved permanently to another Member State in connection with a transfer of residence or used temporarily in a Member State other than that in which they are registered' ⁽¹⁾

(98/C 235/07)

On 6 March 1998 the Council decided to consult the Economic and Social Committee, under Article 99 of the Treaty establishing the European Economic 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 6 May 1998. The rapporteur was Mr Kubenz.

At its 355th plenary session (meeting of 27 May 1998) the Economic and Social Committee adopted the following opinion by 111 votes for with two abstentions.

1. Introduction

1.1. The proposed directive is intended to replace Directive No 83/182/EEC on tax exemptions within the Community for certain means of transport imported into one Member State from another ⁽²⁾ and Directive No 83/183/EEC on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals ⁽³⁾, as amended by Directive No 89/604/EEC ⁽⁴⁾.

1.2. Its aim is to consolidate and update the earlier directives, to address problems encountered in their application, and to take account of the public's expectations of the internal market and the associated freedom of movement.

1.3. The proposal lays down that the Member States will not levy registration duty or similar taxes on vehicles brought into their territory on transfer of residence. In the case of temporary moves, the proposal grants individuals the right to use a vehicle for six months in any 12-month period.

The proposal provides *inter alia* for:

- greater freedom to use a hire car in a Member State other than that in which it is registered. It is proposed to authorize a second rental where a rental contract

expires in a different Member State and the hire vehicle is left on the territory of that Member State;

- the right of the members of the owner's family to use the vehicle in a Member State other than that in which it is registered. The same right is granted to persons who are not members of the family provided that the owner is also in the vehicle;
- greater flexibility concerning the right of persons working in a Member State other than that in which they are resident; such persons would have the right to use their vehicle in the Member State where they work for nine months in any 12-month period;
- the Member State not to apply taxes where, during the authorized period of temporary use, a vehicle is damaged and the cost of repair is greater than the value of the vehicle;
- the repeal of the special tax arrangements for vehicles transferred from one Member State to another by right of marriage or inheritance;
- consultation between national authorities in the event of disputes concerning a person's presumed place of residence.

2. General comments

2.1. The proposed amendments take account of the fact that obstacles to the free movement between Member States of private vehicles are one of the most sensitive problem areas for individuals residing within the European Union. Such obstacles, whether of a tax or other nature, impede the free movement of persons, given the large number of cases where the motor car is the preferred means of transport.

⁽¹⁾ OJ C 108, 7.4.1998, p. 75.

⁽²⁾ OJ L 105, 23.4.1983, p. 59 (ESC opinion: OJ C 131 of 12.6.1976, p. 50).

⁽³⁾ OJ L 105, 23.4.1983, p. 64 (ESC opinion: OJ C 131 of 12.6.1976, p. 49).

⁽⁴⁾ OJ L 348, 29.11.1989, p. 28 (ESC opinion: OJ C 180 of 8.7.1987, p. 13).

2.2. The Committee welcomes the proposed directive.

2.3. The Committee is aware that those Member States which levy registration taxes may suffer a loss of revenue. However, in view of the small number of cases, these losses should not be too high. The Member States concerned could recoup the shortfall by, for example, raising mineral oil taxes (see appended table).

2.4. It hopes that the new directive will give clearer expression to the rights of European citizens and at the same time prevent the abuse of tax concessions.

3. Specific comments

3.1. Article 2 'Definitions'

3.1.1. Article 2(f) defines 'family'. The Committee would point out that some Member States have definitions which are more all-embracing and include other forms of life-long relationship ⁽¹⁾.

3.2. Article 5 'General conditions under which tax is not payable when a vehicle is used temporarily in a Member State other than that of registration'

3.2.1. Article 4(1)(b) contains the term 'use of the vehicle'. This is not clear because it is hardly ever possible to prove on what date use began. The date of registration in the name of the person transferring residence would be more clear-cut.

3.2.2. A specific problem is vehicles previously registered in the name of a member of the family transferring residence who is not moving with them.

3.2.3. Article 4(1)(c) stipulates that the vehicle be brought into the Member State to which the person transfers their residence not later than 12 months after such transfer.

3.2.4. The Committee is of the view that this provision is irrelevant. Rather, what is required here are provisions limiting resale within a certain period and stipulating the maximum number of vehicles per family.

3.3. Article 5 'General condition under which tax is not payable when a vehicle is used temporarily in a Member State other than that of registration'

3.3.1. The Committee considers that the matter dealt with by Article 5(2) belongs in Article 7, in which case

a time-limit would not be necessary as it is not required in Article 7.

3.3.2. At all events the question arises as to how a period of nine (or however many) months can be proved or checked if there are no controls/proof at internal border crossings.

3.4. Article 6 'Specific cases of private use where taxation is not permitted'

3.4.1. The Committee proposes extending the time-limits laid down in Article 6(a) for car rental firms.

3.4.2. The Committee proposes the following wording for Article 6(d):

'a private vehicle used by a resident of the Member State of temporary use, provided that the person who brought the vehicle to the Member State of temporary use is also on board the vehicle.'

3.4.3. The Committee urges that a binding provision be laid down which covers the situation described in Article 6(f) and which is also recognized mutually by the Member States ⁽²⁾.

3.5. Article 7 'Cases of business use where taxation is not permitted'

3.5.1. As in the case of Article 6(f), the Committee proposes that a binding provision be laid down.

3.6. Article 8 'Provisions concerning irreparable damage to vehicles'

3.6.1. The Committee would point out that the market value, especially of older used cars, is difficult to determine.

3.7. Article 9 'Permanent use in a Member State other than that of normal residence'

3.7.1. The Committee urges that the refusal of use in Article 9(3) be relaxed.

⁽¹⁾ Adopted and foster children could be a particular problem.

⁽²⁾ Some Member States require extensive questionnaires to be filled out, even for short vehicle swaps.

3.8. *Article 12 'Settlement of disputes'*

3.8.1. Article 12(3) gives the Commission the right to issue a decision in disputes between Member States. The Committee sees this rather as the responsibility of the European Court of Justice.

4. **Conclusions and summary**

4.1. Completion of the internal market requires freedom of movement of people and goods, in this case

private motor vehicles. At the same time some Member States levy registration taxes on private vehicles in order to pursue fiscal and political goals.

4.2. The Committee considers that this directive, along with the Committee's own comments on it, will strengthen the rights of citizens, especially when they move to another Member State; it will also safeguard the Member States' entitlement to levy taxes.

Brussels, 27 May 1998.

*The President
of the Economic and Social Committee*

Tom JENKINS

APPENDIX

to the opinion of the Economic and Social Committee

Revenue from vehicle-related taxes 1994

A. As a percentage of GDP

	Registra- tion tax	Circulation tax	Petrol tax	Diesel tax	Insurance tax	Road tolls	Total
Austria	0,07	0,20	1,03	0,43	0,34	0,45	2,52
Belgium	0,14	0,42	0,88	0,65	0,12	0,00	2,21
Denmark	1,43	0,46	0,66	0,31	0,10	0,02	2,99
Finland	0,40	0,29	1,24	0,47	0,13	0,00	2,54
France	0,10	0,22	1,04	0,73	0,33	0,00	2,42
Germany	0,00	0,43	1,18	0,55	0,17	0,00	2,33
Greece	0,52	0,14	1,74	0,77	0,00	0,00	3,17
Ireland	0,78	0,67	1,09	0,68	0,00	0,00	3,22
Italy	0,05	0,08	1,34	0,69	0,00	0,33	2,48
Luxembourg	0,00	0,07	2,12	1,50	0,00	0,00	3,70
Netherlands	0,60	0,82	0,95	0,58	0,00	0,00	2,95
Portugal	0,87	0,11	1,53	1,14	0,00	0,24	3,88
Spain	0,22	0,22	1,02	0,73	0,01	0,20	2,18
Sweden	0,11	0,27	1,44	0,31	0,00	0,00	2,13
UK	0,00	0,57	1,43	0,64	0,01	0,00	2,65

Source: Eurostat 1997 and GD XXI.

B. As a percentage of total taxation (incl. social security contributions) general government

	Registra- tion tax	Circulation tax	Petrol tax	Diesel tax	Insurance tax	Road tolls	Total
Belgium	0,30	0,91	1,88	1,39	0,26	0,00	4,72
Denmark	2,77	0,89	1,27	0,61	0,19	0,05	5,77
Germany	0,00	1,00	2,77	1,29	0,40	0,00	5,46
Finland	0,85	0,60	2,60	0,99	0,28	0,00	5,32
France	0,22	0,50	2,36	1,67	0,74	0,00	5,49
Greece	1,63	0,45	5,48	2,42	0,00	0,00	9,98
Ireland	2,12	1,83	2,97	1,85	0,00	0,00	8,77
Italy	0,12	0,20	3,29	1,69	0,00	0,81	6,10
Luxembourg	0,00	0,16	4,79	3,40	0,00	0,00	8,35
Netherlands	1,28	1,76	2,04	1,25	0,00	0,00	6,33
Austria	0,15	0,46	2,34	0,98	0,76	1,03	5,73
Portugal	2,45	0,32	4,31	3,22	0,00	0,67	10,96
Spain	0,59	0,61	2,79	2,02	0,02	0,54	5,98
Sweden	0,22	0,53	2,89	0,62	0,00	0,00	4,27
UK	0,00	1,69	4,26	1,90	0,02	0,00	7,88

Source: Eurostat 1997 and GD XXI.

Opinion of the Economic and Social Committee on the 'Eighth Annual Report on the Structural Funds 1996'

(98/C 235/08)

On 25 November 1997 the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the 'Eighth Annual Report on the Structural Funds 1996'.

The Section for Regional Development and Town and Country Planning, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 April 1998. The rapporteur was Mr Little.

At its 355th plenary session (meeting of 27 May 1998), the Economic and Social Committee adopted the following opinion by 116 votes and 1 abstention.

1. Introduction

1.1. The European Commission's Report on the Structural Funds in 1996 is the eighth such annual report since the last major revision of the regulations governing the Structural Funds (the 1988 'reform' of the Funds).

1.2. The report is published in accordance with Council Regulations (EEC) Nos 2052/88 and 4253/88 both as amended in 1993 and, as required, details their operations during the year and the progress made towards achieving their objectives.

1.3. In November 1996, the Commission presented its first three-yearly report on Economic and Social Cohesion⁽¹⁾ as required by Article 130B of the Treaty of European Union and a précis of this closely-related report is incorporated in the report under review. This report on cohesion includes an assessment of the contribution made by the Funds to the progress being made towards economic and social cohesion. The Economic and Social Committee adopted an opinion⁽²⁾ on this report on 23 April 1997.

⁽¹⁾ COM(96) 542 final.

⁽²⁾ OJ C 206, 7.7.1997, pp. 78-87.

1.4. Responding to requests from the European Council by means of a comprehensive communication entitled Agenda 2000, the Commission has outlined its broad perspectives for the development of the Union and policies beyond the turn of the century and for a broad financial framework having regard to enlargement. The document contains, *inter alia*, outline proposals for further reform of the Structural Funds with the stated aim of fostering competitive development and sustainable and job-creating growth throughout the Union. The Committee adopted an opinion ⁽¹⁾ on 30 October 1997 providing a broad initial response to the Commission's proposals and will deal in more detail, in additional opinions currently under preparation, with the major facets such as the reform of structural policy in the light of the more detailed proposals ⁽²⁾ published by the Commission in March 1998.

2. Features of the Structural Funds in 1996

2.1. The various forms of assistance for the financial period have now been put into effect in all Member States with the adoption of the last Single Programming Documents and Community Initiative programmes in 1996 and the advent of multiannual programming. For the new Member States, 1996 was a year of key importance with the allocation of commitments advancing well.

2.2. The Objective 2 programmes for 1994-1996 were wound up although appropriations of ECU 859 million were carried forward to the next period. Amongst the preparations that were made for 1997-1999, the Commission established that the regions eligible for the latter period should be the same as for 1994-1996 with very minor changes. The overall population covered by objective 2 is still 16,4 %.

2.3. The Commission continued to monitor implementation, supporting preparations for interim evaluation. It also launched a series of thematic evaluations of the impact of the Structural Funds in a number of key areas such as research and development, small and medium-sized enterprises, the environment and equal opportunities. Work to utilize the outcomes of the evaluations was expected to commence in late 1997. In conjunction with the Member States, new guidelines for sound and efficient management were introduced. Weaknesses and irregularities in almost all Member States were again revealed.

2.4. The four principles central to the 1988 reform were kept under scrutiny. In the view of the Commission,

there was an improvement in the way partnership took shape and substantial progress was made in obtaining verification that the principle of additionality was honoured.

2.5. Clear progress was made in making up the backlog in financial activity and execution of the Community budget was virtually 100 % for 1996. ECU 26,1 billion was committed by way of appropriations and payments amounted to ECU 22,4 billion.

2.6. The employment situation remained a major cause for concern during 1996 and the Commission sought to ensure that there was consistency between the measures part-financed by the Structural Funds and the strategy of the EU to give priority to tackling employment problems. Accordingly, job creation was established as first priority within the guidelines issued by the Commission to Member States for the preparation of Objective 2 programmes for 1997-1999. For the same reason, the Commission launched an initiative to promote territorial pacts for employment with part-financing from the Structural Funds.

2.7. The Commission also allocated the financial reserve of almost ECU 1,7 billion which had been set up at the time of the initial allocation for Community Initiatives over the 1994-99 period, taking into account a number of priorities: combating unemployment, equal opportunities and combating exclusion, the environment and the territorial dimension of structural policies.

3. General Comments

3.1. The report is both comprehensive and complex and it constitutes, in the main, a historical record and a reference source. It would be neither practical nor appropriate for the Committee to comment on all facets of the report.

3.2. In this opinion, the Committee concentrates on major issues arising in 1996, on issues which have been raised previously but are not yet resolved and on the merits of the Eighth Annual Report itself. As the Objective 2 programmes for 1997-1999 are the subject of a parallel opinion, to avoid duplication, no specific comments are made on the preparations made for these programmes in 1996 and to which reference is made in the report under review. Similarly, no specific comments are made here on the detailed proposals for reform of the Structural Funds regulations as these proposals will be the subject of one or more separate opinions to be prepared and adopted over the next few months.

3.3. The Committee notes that the Commission's report for 1996 is largely structured as for the previous

⁽¹⁾ OJ C 19, 21.1.1998, pp. 111-115.

⁽²⁾ COM(98) 131 final.

year. One important change is the bringing together of all the information on the assistance from the funds for each country so as to provide individual overall views of the structural programmes implemented. The innovation of last year of dealing with one subject horizontally throughout the report has been retained, the topic this time being support for research and technological innovation.

3.4. The report falls into two main parts. The first takes a general look at what was achieved in 1996 and comprises four chapters (implementation of the Structural Funds in 1996, budget implementation, institutional matters connected with the Structural Funds, evaluation). The second looks in detail at the implementation of the Structural Funds and comprises six chapters: the first sets out the programmes and achievements in each Member State and the other five consist of financial tables giving details of financial implementation in 1996, implementation from 1994 to 1996, the regional breakdown of financial implementation, major projects, and ERDF and ESF pilot projects.

3.5. The Committee welcomes both the content and structure of the 1996 report and commends the Commission for its diligence in the production of this extensive document of some 350 pages and for meeting the November deadline for its publication. However, the time-cycle for production reduces the value of the report and, accordingly, the Committee supports the Commission's recently-stated intention to bring forward the date of publication in future years.

4. Specific comments

4.1. *Partnership*

4.1.1. The Economic and Social Committee has long been concerned with the setting up of satisfactory 'partnerships' whereby consultation will take place between the Commission, Member States and other relevant bodies regarding the preparation, financing and evaluation of Structural Funds operations. The new partnership arrangements introduced in 1994 were supported in principle by the Committee and it now acknowledges the progress that has been made by 1996 in the implementation of these arrangements.

4.1.2. The report refers to an internal Commission document in which preliminary proposals were made with a view to further improvement of the partnership concept being introduced for the period after 1999. Those proposals were taken forward within a Commission

Communication on Community Structural Assistance and Employment⁽¹⁾ on which the Economic and Social Committee was not asked to give an opinion and were also consolidated within its Communication 'Action for Employment in Europe — A Confidence Pact'⁽²⁾.

4.1.3. Under the initiative approved at the July 1996 European Council to promote Territorial Pacts for Employment (initially on a pilot basis), specific guidelines have been adopted for the 'stronger partnership' deemed necessary for the project. The Committee has already expressed its support for the pacts and, on 30 October 1997, it approved an information report to help publicize them.

4.1.4. The Committee considers that, in due course, the Territorial Pacts should provide useful experience of such a stronger partnership. This will have relevance for the general operations of the Structural Funds, but, because of delays in implementing the pilot pacts, such experience may not be available and assessable before the framework and regulations for the next period are put in place. The report gives no further indication of how the Commission proposes to take forward its thinking on the future development of partnership. However, the Committee is aware that, in 1997, the Commission set in motion a thematic evaluation of partnership, the outcome of which it awaits with interest.

4.1.5. A redefinition of partnership has now been proposed by the Commission as part of the reform of the Structural Funds.

4.2. *Programming*

4.2.1. The delays which occurred during 1995 and 1996 in launching and implementing programmes have been largely caught up in 1996. Whilst that achievement is to be welcomed, the Committee remains concerned that a gap of probably some eighteen months on average arose between the winding-down of programmes for the preceding period and the setting-up of programmes for the 1994-1999 period. The vast number of assistance measures (now 492 for the objectives alone!) creates an enormous burden in terms of preparation, appraisal and approval and one that is apparently irreconcilable with the satisfactory closing of that gap.

4.2.2. The programme for Objective 2 regions will suffer twice from such delays because of the sub-division

⁽¹⁾ COM(96) 109 final, March 1996.

⁽²⁾ CSE(96) 1 final, June 1996.

of the 1994-1999 period. Before the start of that period the Committee expressed the view, in its opinions⁽¹⁾ on the Amendment of the Structural Funds Regulations, that the period should not be sub-divided for Objective 2. In the event, negligible changes were made to the eligible regions and, if the Committee's recommendation had been adopted, the additional delays and administrative burdens could have been avoided.

4.2.3. The Committee continues to support simplification of programming procedures and, indeed, in its recent opinion on the Report on Economic and Social Cohesion it put forward specific proposals for rationalization and reduction of the numbers of objectives, funds and initiatives.

4.2.4. The Committee recommends that the timetable for preparation, appraisal and approval be brought forward in the cycle so that the lead time between the start of a new financial period and the launch of programmes is shortened considerably and calls on the Commission to issue comprehensive and clear guidelines as early as possible in the cycle. The implementation of such a timetable for the financial period 2000-2007 requires appropriate political decisions to be taken by the Council and the European Parliament early in 1999.

4.3. *Structural Funds and other Community policies*

4.3.1. Regional development is not determined solely by the regional policies of the Community and the Member States. Similarly, EU structural policies must operate within the overall economic environment and are subject to the effects of other policies.

4.3.2. The need for optimum consistency between policies has been stressed regularly by the Committee and it has frequently called for analyses of the relationship between the Structural Funds and other Community policies and on the impact they have on each other.

4.3.3. The Cohesion Report, to which reference is made in point 1.3 above, provides a perspective of the impact of all EU and national policies on economic and social cohesion, the fundamental aim of the Structural Funds. The Committee has warmly welcomed the report and, in its opinion thereon it stated that 'The critical value of the first Cohesion Report is that it places the funds in the context of a wider range of EU policies'⁽²⁾.

4.3.4. No matter the efforts made to take account of cohesion, it is inevitable that the opportunities and benefits of non-structural policies will have uneven regional consequences as does the whole process of economic integration. The recognition of countervailing pressures arising from non-structural policies is part of the rationale for the operation of the Structural Funds and these need to be given proper cognisance in the targeting of funds. In chapter II D of the Eighth Annual Report, the Commission places emphasis on the influence of the Structural Funds in assisting the objectives of other policies and merely makes some references to positive effects of those policies on cohesion. Whilst the Committee accepts that it is not appropriate to refer in detail to those countervailing pressures in annual reports (in contrast to the Cohesion Report), it considers that their existence should not be ignored.

4.3.5. The Committee regrets that the heading of chapter II D is misleading as the term 'complementarity' implies that EU policies are complementary without qualification (things or matters cannot be complementary to a degree). The term used is an unfortunate example of bureaucratic jargon and is, at best, unclear. It would be more informative to use 'Compatibility with other Community policies' as the heading of the chapter.

5. **Research and technological innovation**

The Committee welcomes the horizontal analysis of the operations undertaken by the funds for the technological development of the regions and supports the emphasis given to innovative products and services arising from applied research. The report underlines the EU-wide disparities in RTD indicators such as RTD expenditure and employment and access to telecommunications. The increasing emphasis being given to RTD measures under the Structural Funds in the 1994-1999 programmes, particularly in Objective 1 regions, is a welcome development. Also notable is the growing sophistication of technological measures (e.g. information and advisory services, technical education and training, the exploitation of telecommunications infrastructure, technology transfer mechanisms), the growing involvement of the private sector and the investment being made in complementary regional innovation/technology transfer strategies to promote a more analytical and strategic

⁽¹⁾ OJ C 201, 26.7.1993, pp. 52-58.

⁽²⁾ OJ C 206, 7.7.1997, pp. 78-87, paragraph 1.10 of the opinion.

approach to RTD issues. It will be important for future reports and evaluation commissioned by the European Commission to assess the impact of these trends. The

Committee notes with interest that a separate report on RTD and the Structural Funds is to be issued by the Commission early in 1998.

Brussels, 27 May 1998.

*The President
of the Economic and Social Committee*

Tom JENKINS

Opinion of the Economic and Social Committee on the 'Communication from the Commission on the new regional programmes 1997-1999 under Objective 2 of the Community's Structural Policies — focusing on job creation'

(98/C 235/09)

On 17 November 1997 the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for Regional Development and Town and Country Planning, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 April 1998. The rapporteur was Mr Masucci.

At its 355th plenary session (meeting of 27 May 1998), the Economic and Social Committee adopted the following opinion with 114 votes in favour and one abstention.

1. Introduction

1.1. In November 1997 the Commission presented a communication setting out the new regional programmes for declining industrial areas (Objective 2) during the second programming period, which runs to the end of 1999.

The communication is based on an examination of 65 new Single Programming Documents (SPDs) and one Community Support Framework (CSF) for Spain.

The communication does not consider the SPDs for Austria and Sweden, as these countries opted for a five-year programming period⁽¹⁾.

1.2. The communication summarizes the anticipated impact on economic development, and especially on employment.

According to information from the Member States, these programmes should create or maintain around 880 000 jobs, 90 % of which (801 000) are concentrated in the UK, France, Germany, Spain and Italy.

1.3. The planned measures fall into four main categories:

- support for the growth and competitiveness of industry and businesses, especially SMEs (47,4 % of expenditure);
- training and reskilling programmes, in particular to familiarize workers with new technologies (33,8 %);
- regeneration and improvement of run-down industrial and urban areas (12,3 %);
- environmental protection and promotion of clean technologies and green tourism (5,2 %).

⁽¹⁾ A summary of the programmes for these two countries is contained in the Commission communication on the implementation of EU regional policies in Austria, Finland and Sweden (COM(96) 316 final, 3.7.1996).

According to the Note for Guidance which the Commission sent to the Member States on 30 April 1996⁽¹⁾, the paramount priority for the 1997-1999 Objective 2 programmes is job creation. This is to be achieved by improving production structures and raising the skills level of the workforce.

1.4. The Commission scrutinized each plan in the light of these objectives and assessed the following factors: extent to which the priorities have been taken into account; quality of analysis of the area concerned; consistency between the declared objectives and the resources allocated to them; concrete impact on employment; environmental impact of the strategy and related actions.

1.4.1. Account was also taken of the principles of partnership and additionality.

In particular, the plans were to include a commitment to ensure that the social partners played their full part, and were to link the Objective 2 programmes with other economic regeneration schemes in the region concerned.

As regards additionality, each Member State was to ensure the same overall level of expenditure as for 1994-1996.

1.5. The list of regions eligible for Objective 2 support is broadly the same as in the 1994-1996 period, as is the percentage of the EU population concerned (16,4 %).

Funding has been set at ECU 8,288 million (1997 prices); this is a real increase of 13,8 % compared to the previous period. To this figure should be added ECU 859 million of unutilized resources from the first period, making a total of ECU 9 147 million.

2. Problems identified by the Commission

2.1. The Commission recognizes that the framing of the new SPDs has drawn on experience gained in the previous programming period.

It also notes a strong degree of continuity of strategy between the new programmes and their predecessors.

Most plans had four or five clearly presented, explicit strategic objectives; some of these reflected an integrated approach to economic development, while others highlighted horizontal aspects such as environmental sustainability and equal opportunities.

2.2. In assessing the measures' consistency with the strategic objectives, the Commission notes that in

some cases the broad range of interventions made complementarities and synergies more difficult to achieve.

2.2.1. Training schemes, in particular, were less closely targeted, although 'this may partly be due to the horizontal nature of human resources measures'⁽²⁾.

However, the Commission states that 'the integration of ERDF and ESF measures was relatively improved'⁽²⁾

2.2.2. The Commission identified more serious shortcomings in the plans originally submitted; these plans showed 'an initial lack of quantification of objectives and outputs including the employment effects and absence of baseline data'⁽³⁾.

In particular, the Commission notes that little use was made of the methodological framework sent to the Member States, on ex-ante appraisal of employment effects.

2.2.3. Greater attention was paid to the environmental aspects. Most plans provided a strategic environmental assessment, and some gave detailed information on all the proposed measures.

2.3. Although most plans included an explicit commitment to the partnership principle, the participation of the economic and social partners was not always clearly defined.

2.4. Finally, problems in gathering and verifying data made it difficult to ascertain additionality.

For this reason, a clause was introduced in the decisions approving the SPDs 'suspending Community payments after the first advance pending ex-ante verification of the additionality principle'⁽⁴⁾.

2.5. Negotiations between the Commission and the Member State resolved some of these problems and significantly improved the quality and effectiveness of the plans, 'particularly in the light of the results of evaluation (...) and the paramount priority of job creation'⁽⁵⁾.

⁽¹⁾ COM(96) 952 final, 29.4.1996.

⁽²⁾ COM(97) 524 final, 14.11.1997, Chapter III (i), point iv.

⁽³⁾ COM(97) 524 final, 14.11.1997, Chapter III (i), point v.

⁽⁴⁾ COM(97) 524 final, 14.11.1997, Chapter III (i), c.

⁽⁵⁾ COM(97) 524 final, 14.11.1997, Chapter III (ii).

In some instances, increased importance was given to measures which promised most job creation. In other cases, the programmes were completely rethought.

3. General comments

3.1. The communication is important for a number of reasons, and firstly because it covers the last period of operation of Objective 2 in its current form.

3.1.1. This is because the reform of the Structural Funds anticipated in Agenda 2000 envisages a radical revision of structural policy.

The seven current objectives would be reduced to three. Two of these would be regionally based, while the third would exclusively cover human resources.

For the period 2000-2006, the Commission envisages a slightly lower average annual appropriation than for 1999, and stricter application of the 75 % of GDP threshold for regions included in the new Objective 1.

3.1.2. The percentage of the EU population covered by Objectives 1 and 2 would fall from the present 51 % to between 35 and 40 %; this means that some regions would have to be excluded. As all the Community initiatives will come under the new Objectives 1 and 2 (apart from those for human resources, which will form Objective 3), it follows that some areas might no longer receive any structural support at all — other than the Social Fund and the remaining Community initiatives — after 1999. For these areas, the measures discussed in the communication are thus of special importance.

3.2. There is a second reason why the communication is so important: in order to ensure that the reform of the Structural Funds is as transparent and effective as possible, a careful assessment must be made of the manner in which the decisions were reached on the SPDs for 1997-1999, and of the planned measures.

Key factors here might include:

- as regards the way the programmes were devised: a check on the existence of a horizontal partnership;
- as regards content: the selection of innovative projects and local development projects;
- as regards objectives: the creation of real additional, lasting jobs.

3.3. Thirdly and most significantly, the communication is important because of the contribution which the programmes contained in the SPDs can make to the

drive to create and save jobs, as this is now the top priority of Community policies.

4. Assessment

4.1. The programmes described in the communication can thus be assessed:

- against the results of the preceding periods, in the light of the problems which emerged in the earlier administration of Objective 2;
- with an eye to the future, in the light of the structural policy reform proposed in Agenda 2000⁽¹⁾.

4.2. Comparison with earlier action

4.2.1. Firstly, it is worth seeing whether the programming for 1997-1999 has improved on previous programming.

A useful reference grid is provided by the issues that were highlighted at the April 1997 European Cohesion Forum, which considered some reports on the management of the Structural Funds⁽²⁾.

4.2.2. The forum's debate on Objective 2 revealed a number of basic problems. Broadly speaking, although Structural Fund assistance in declining industrial regions has done much to help structural adjustment over the years (in the period 1989-1993, for example, some 500 000 net jobs were created), its impact has been limited by the excessively small size of some areas, which has sometimes made an effective integrated approach impossible.

The limited duration of the support (two years) has encouraged short-term schemes, to the detriment of a strategic approach to development.

4.2.3. As regards programme content and implementation, any genuine reconversion of these areas has been seriously hampered by the fact that small firms are often unable to follow market and innovation trends, and therefore fail to produce any appreciable regional added value.

However, there has been a steady improvement on one important front. Programme content has given priority

⁽¹⁾ See Part One, Chapter II, 2 of Agenda 2000.

⁽²⁾ The report presented by Prof. Michel Quévit is particularly relevant.

to intangible factors (development of businesses, innovation, training and skills, environmental protection), rather than to physical ones such as basic infrastructure.

The attention given to RTD and innovation is also important. However, care must be taken to ensure that investment does not just support whatever innovation is on offer, but is geared to the real needs of small businesses.

4.2.4. One of the most positive features of the Structural Funds is that they have committed the regions to make more permanent, structured provision for development.

Management methods still differ considerably, as they are influenced by the differing administrative traditions, and this fact is to be welcomed.

However, centralist administrations still find it difficult to accept a 'bottom-up' approach to regional development.

4.2.5. Another plus point is that the Funds have developed the horizontal partnership and have dovetailed more effectively with other national and regional assistance.

In some areas, setting up the partnership remains difficult because of the lack of an established tradition of relations between the public authorities and socio-economic organizations.

In the past, the private sector has hardly ever taken part in the framing of the programmes, unlike the public and semi-public sector.

4.2.6. Other important issues relate to the management of the programmes.

Alterations tend to be made on the basis of financial aspects rather than on changes in regional development priorities.

This is partly because there is no monitoring, and because the time frame is too short.

Many projects do not set operational objectives for implementation and impact. These criteria have rarely been instrumental in project selection.

Lastly, additionality has often posed a problem. Available funds have not been used because the regional and national authorities found it difficult to match the Community resources.

4.2.7. In the communication's conclusions, the Commission points out that the new programmes for 1997-1999 offer more incentives for investments which promote employment-intensive growth and sustainable development.

Greater attention is devoted to training and retraining schemes, promotion of entrepreneurship and encouragement of RTD.

Efforts will also be made to improve local services, which offer considerable employment potential.

4.2.7.1. Overall, the Committee is pleased to see a greater integration of Community, national and local initiatives. This is vital in order to make optimum use of resources and obtain better results.

4.3. *The reform of the Structural Funds and State aid for the regions*

4.3.1. The Commission states in Agenda 2000 that the new Objective 2 programmes 'will favour economic diversification, including in regions heavily dependent on a single declining economic sector' ⁽¹⁾.

It goes on to say that 'this will require increased support for small and medium-sized enterprises and innovation as well as a greater emphasis on vocational training, local development potential, the protection of the environment and combating social exclusion (...). Investment in human resources, based on anticipation and on activating the labour market (...) should be increased'.

4.3.1.1. The Commission would also like to see 'simpler, transparent and specific eligibility criteria developed for the various types of areas covered by the new Objective 2'. Each region is to have a single programme involving the various Funds (ERDF, ESF, EAGGF, FIFG).

4.3.1.2. The aim will be to concentrate resources on the worst affected regions at Community level.

Any current Objective 2 and 5b regions which are no longer eligible under the future selection criteria would enjoy limited financial support for a transitional period.

The Commission also states that, in order to simplify the operational arrangements, there will be a single multi-year programme for each Objective 1 and 2 region, a clear division of responsibilities between the national, regional and local authorities and the Commission, and stringent checks and verification of results.

4.3.2. Account must also be taken of the new guidelines for State aid to the regions, which were approved by the Commission on 10 December 1997 following an

⁽¹⁾ Agenda 2000, Part One, Section II (2).

initiative by Mr Van Miert. These seek 'to set up a more transparent system' and 'to create positive discrimination with regard to the least favoured regions'⁽¹⁾.

4.3.2.1. The main criteria will be that:

- aid should be concentrated on the poorest regions;
- national aid should be consistent with that used for the Structural Funds;
- special attention should be accorded to aid that is designed to boost employment; hence aid will no longer be restricted to productive investment, but may also cover the jobs that will ensue from it;
- the overall volume of regional aid should be reduced.

4.3.3. Of relevance here is the impact which the proposed reforms will have on the number of people covered by the Structural Funds after the year 2000.

This raises the question of how to ease the transition for the affected regions and adopt new eligibility criteria that are socio-economically justified.

4.3.4. The idea of making Objective 2 areas coterminous with those eligible for state aid (Treaty Article 92(3)c) is also a cause for concern. While recognizing the need to coordinate and integrate EU structural policies more effectively with national ones, the Committee feels that this could lead to an excessive reduction in areas.

5. Impact on employment

5.1. The employment impact of structural measures deserves careful consideration. According to the Delors white paper, the main objective of the Structural Funds is to help create conditions for lasting growth, competitiveness and economic development.

The March 1996 Commission communication on structural assistance and employment⁽²⁾ established the priority goal as employment.

From Essen through to the recent summit in Luxembourg, European Councils have consistently made employment their most pressing priority.

The Amsterdam Treaty contains a new Title on employment, deeming it a 'matter of common concern'.

The Commission's 1998 work programme⁽³⁾ also announces various draft regulations regarding structural policies, with a view to implementing the reforms proposed in Agenda 2000, and states that employment is the first of the 'political priorities' on which it intends to concentrate its action⁽⁴⁾.

5.2. The question of the employment objectives set in the various SPDs is worth considering here.

The data contained in Annex 4 to the communication, concerning the expected impact on employment in the Member States, vary greatly and are not always intelligible.

In the UK, for instance, over 380 000 jobs are expected to be created or maintained (including over 40 000 temporary jobs — around 10 %). The figure for Germany is less than 120 000 (including 4 100 temporary jobs — around 3 %), while for Italy it is 123 000 (including 6 200 temporary jobs — around 5 %).

Hence there are also considerable disparities in the average cost of creating each job.

5.3. Some of the statements made in the communication appear slightly contradictory.

The Commission begins with the caveat (chapter III, point v) that 'an initial lack of quantification of objectives and outputs (...) was one of the most disappointing features of the plans originally submitted'.

However, it adds that 'substantial progress was made subsequently' in the negotiations.

It immediately goes on to regret that the Member States made little use of the note on methodology which it sent them regarding ex-ante appraisal of employment effects.

Later again, it returns to the 'substantial progress (...) made in the quantification of employment effects', and speaks of 'detailed estimates'⁽⁵⁾.

5.3.1. At all events, the assessments appear to have been made using different calculation methods.

5.4. A similar problem exists in relation to the comparison with earlier ex-post evaluations.

⁽¹⁾ OJ C 74, 10.3.1998.

⁽²⁾ COM(96) 109 final, 20.3.1996.

⁽³⁾ SEC(97) 1852 final.

⁽⁴⁾ COM(97) 517 final.

⁽⁵⁾ COM(97) 524 final, Chapter III (iii).

According to the eighth annual report on the Structural Funds, 850 000 gross jobs were created or maintained during the programming period 1989-1993.

For 1997-1999 (i.e. just two years), the forecast gross figure is 880 000 — in other words, a higher figure in half the time (a rise of over 200 %). This seems to be due to the greater commitment shown by all parties to employment.

However, it is not possible to make the most interesting comparison — concerning the creation of new jobs — because (surprisingly) data are not available on the number of net jobs; these data are provided only by the UK and France.

This gives a telling indication of the reliability of the data provided by most countries.

In contrast to this lack of precision, data on the number of temporary jobs is available for 12 Member States. The figure for these (106 115) is rather high when compared with the possible, realistic final figure for net jobs.

5.5. The Commission obviously has difficulty obtaining reliable information from the Member States, and lacks the manpower to carry out the large number of checks required. However, there remains the problem of the methodology to be followed, and — more importantly — the problem of checks on whether the objectives are being achieved; these checks are not being made at present.

Checks and verification are carried out meticulously when it comes to the accounting procedures for expenditure, but there is no ex post verification or monitoring.

These are not just issues of methodology; they have real practical consequences for employment.

5.6. Here the Committee would again stress that real economic growth — with an increase in demand and in available income — is a precondition for creating real, lasting jobs.

Support policies for generating new jobs must form part of a process of wider growth and development.

What is true at macro level is also true at micro level. Measures for introducing innovation and increasing productivity must be matched by measures for expanding demand.

In its recent report on Employment in Europe 1997, the Commission states that 'whatever the relationship

between employment and output growth, it is clear that the major problem remains the creation of more jobs' ⁽¹⁾.

Structural measures, including those funded under Objective 2, must aim not only to boost the competitiveness of businesses and regions, but also to boost production, demand and income. This is the only way in which the improvements will produce additional jobs.

6. Concluding comments

The Commission communication highlights a few outstanding problems which must be solved with a view to the reform of the Structural Funds. It also provides an opportunity to consider ways of managing resources more effectively, in the interests of both the short term aim of saving or creating jobs and the strategic aim of economic and social cohesion.

6.1. *Strengthening the partnership*

6.1.1. The question of the partnership must be addressed clearly and firmly. The communication devotes only a short paragraph of Part I to this key instrument; it is not mentioned at all in the analytical tables for the Member States or in the conclusions. Only in the summary tables for territorial employment pact projects (Annex 5) do we find a list of the main partners.

6.1.2. As the Commission states in the Note for Guidance which it sent to Member States in 1996 ⁽²⁾, many Objective 2 regions already have a tradition of partnership and this needs to be further developed. The Note stressed that in developing and implementing the new Objective 2 programmes, 'full use should be made of the regional and local authorities and the economic (such as, for example, SME representatives) and social partners'. This was necessary 'in order to ensure that programmes fully reflect local needs and conditions'.

6.1.3. However, the communication does not assess the nature or efficacy of this involvement, either in the framing of the programmes or in implementation and checks.

6.1.4. The Committee would again stress that the partnership must function right from the planning stage, and must continue during the implementation of structural measures. A strong partnership is essential

⁽¹⁾ COM(97) 479 final, 1.10.1997, p. 1.

⁽²⁾ COM(96) 952 final, 29.4.1996, point III.

for effective structural measures because it makes it possible to tailor projects to real socio-economic problems and to incorporate them in a regional development strategy.

The public authorities can no longer treat involvement of the socio-economic organizations as an optional extra or as a mere formality that complicates decision-takers' work. There must be an organized partnership, which must function across all Member States and for all structural measures.

6.1.5. Use of the partnership has improved since the reform of the Structural Funds and the 1993 regulation, but the degree to which Article 4 of Regulation 2081 is applied varies from country to country. The Committee has long asked that this article be reworded to give a clearer definition of the principles of the partnership, without giving too much leeway to the Member States. The Commission's new proposal (Article 8 of the recent proposal for the framework regulation) would appear to be a step forward which meets the Committee's recommendations. Common criteria also need to be established regarding the operation of the monitoring committees.

6.1.6. The Commission's report on the Structural Funds in 1996⁽¹⁾ rightly notes the importance of:

- reformulating the legal framework so as to clarify the roles and responsibilities of each partner;
- improving the technical and operational capacities of partners where necessary, by supporting training, information and technical assistance measures.

The aim should be for the partnership to become an essential part of structural policy, and ensure genuine involvement of the public and private socio-economic partners in the framing of structural programmes.

6.2. *Reviewing the length of the programming periods and regional eligibility*

6.2.1. Rather than extending the 1994-1996 programmes, the Commission has opted for new programmes, as it feels that this will improve the use made of the funds. In this particular case the decision may be justified by the need to reorient the programmes towards the priority objective of employment.

In general, however, the Committee thinks that the productive side of a regional economy cannot be changed overnight, as the whole socio-economic geography may

have to be altered. Re-allocating human resources also takes time, as people have to be properly trained for the new activities.

6.2.2. The Committee feels that, in future, longer term programming would be more in keeping with a more integrated strategy that has a stronger impact on conditions in Objective 2 regions. It goes without saying that there should always be a mid-term review, as this provides an opportunity not only for checks and adjustments but also to put forward new measures if necessary, so as to focus on the areas which offer the best prospects for improving local competitiveness and creating stable employment.

6.2.3. The eligibility criteria should be carefully reviewed. A more effective and integrated approach obviously also presupposes more flexible criteria for demarcating the geographical areas covered by measures.

6.2.4. One problem which needs to be solved with the help of the Member States and local authorities concerns the statistical indicators used for assessment and decision-taking.

It is important, with respect to crisis-hit areas, to define indicators based on inter-comparable, credible statistics.

6.2.5. The Committee generally endorses the need to concentrate resources in order to obtain a critical mass that will stimulate regeneration and new development. Resources should therefore be concentrated in the worst hit areas of the eligible regions.

6.3. *Focusing on support for SMEs*

6.3.1. In order to make Objective 2 measures more effective, especially on the employment front, priority should be given to SMEs. The development of existing SMEs and micro-businesses and the establishment of new and innovative ones are a vital way of diversifying production in areas that need regeneration.

SMEs should be helped to become competitive on the national and international market. Innovation-transfer

⁽¹⁾ COM(97) 526 final.

schemes should be provided for them, gearing the regeneration exercise more closely to their needs.

As well as for infrastructure, Objective 2 resources should be used to improve the position of SMEs in intra-EU trade, with new products and access to new markets. The overall aims should be to create an operating environment conducive to the generation of profits, and to foster a spirit of risk-taking and innovation among young people.

6.3.2. The development of information and communication systems is of basic importance here — in other words, the implementation of the information society in manufacturing and service SMEs. One priority should be the establishment of centres providing services geared to the needs of SMEs.

It is necessary to eliminate a certain bias towards 'industry', which leads all countries to skew their planning towards companies in traditional manufacturing sectors rather than services, trade and tourism.

It should be remembered that for some years now, while industry and agriculture have steadily shed jobs and created few new ones, services have registered a virtually uninterrupted rise in employment.

Services such as telecommunications, information technology and distribution still offer considerable scope for

new employment. Both the Delors white paper and the most recent economic forecasts suggest that millions of jobs can be created by fully exploiting the opportunities of the information society. Programmes financed under Objective 2 should include funding for innovation (e.g. telematics in trade and services).

6.3.3. Two other fields deserve more attention as sources of new jobs:

- environmental protection (water treatment, recycling of industrial waste, improvement of the urban environment, and so on). The recent communication on environment and employment⁽¹⁾ is relevant here;
- tapping of new sources of employment to meet the changing needs of society. Objective 2 regions have a high population density, and industrial restructuring has left a large pool of labour.

6.3.4. The final important factor is the development of human resources, with the training system being geared to business needs. This is of special importance in Objective 2 areas, where hundreds of thousands of workers — many of them highly skilled — are obliged to acquire new skills at an advanced age. A continuing training system is thus vital, to help workers cope with the increasing pace of change.

⁽¹⁾ COM(97) 592 final, 18.11.1997.

Brussels, 27 May 1998.

The President
of the Economic and Social Committee
Tom JENKINS

Opinion of the Economic and Social Committee on the 'Communication from the Commission on the Implementation of the First Action Plan on Innovation in Europe'

(98/C 235/10)

On 21 January 1998 the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for Energy, Nuclear Questions and Research, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 13 May 1998. The rapporteur was Mrs Sirkeinen.

At its 355th plenary session held on 27 and 28 May 1998 (meeting of 27 May) the Economic and Social Committee adopted the following opinion by 116 votes to none, with three abstentions.

1. Introduction

1.1. In its opinion⁽¹⁾ on the Green Paper on innovation the Economic and Social Committee notes that:

- innovation is the basis for competitiveness, employment and economic and social development and well-being;
- innovation lays the foundations for ongoing cohesion; and
- innovation is by nature an extensive and decentralized process comprising many elements and should be approached on the basis of respect for the subsidiarity principle, albeit in a coordinated fashion.

1.2. Reducing unemployment in Europe requires the adoption of new attitudes and approaches. In particular, there is a need to improve the capacity for innovation in Europe. This extends far beyond research and technology to include factors related to prevailing attitudes, the social and educational context and the legal framework. The Amsterdam and Luxembourg European Councils entrusted the Commission with the task of promoting research and innovation with a view to reducing unemployment.

1.3. With the publication of its Green Paper on innovation in 1995, the Commission launched a debate on innovation policy.⁽²⁾ The Economic and Social Committee adopted an opinion on the Green Paper in May 1996⁽¹⁾. On the basis of the Green Paper and the feedback generated by it the Commission drew up the First Action Plan for Innovation in Europe in December 1996. The Commission communication which is the subject of the present opinion contains the first annual report on implementation of the Action Plan together with a proposal for priorities for action in 1998.

2. Gist of the Commission's communication

The Commission document is organized as follows:

2.1. *Implementation of the Action Plan*

Implementation has commenced at Community level. The following table lists the various measures and summarizes the main progress made and current situation in different fields.

Protection of intellectual property

Green Paper on patents:

- Commission decision on appropriate follow-up at the beginning of 1998

Intellectual Property Right (IPR) Help Desk:

- Call for tenders concerning the provision of external services at the beginning of 1998; service operational mid-1998

Access to data on patents:

- Decision by the European Patent Office on implementation of a single interface

Protection of biotechnological inventions:

- Unanimous agreement by the Council on the need for a directive in November 1997

Intellectual property in the information society:

- Commission proposal for a directive on 10 December 1997

Technical inventions:

- Commission proposal for a directive subsequent to consultation on the Green Paper on protection of utility models in the single market

Financing innovation

The European Capital Markets:

- Launch of the Euro-New Market and EASDAQ (European Association of Securities Dealers Automated Quotations)
- Commission report to the European Council on the remaining obstacles, June 1998

⁽¹⁾ OJ C 212, 22.7.1996.

⁽²⁾ COM(95) 688 final.

I-TEC (Innovation and Technology Equity Capital):

- Selection of the first nine venture capital funds at the end of 1997 (ECU 380 million for 150 high-tech SMEs); plan to establish a network between the selected funds

JEV - Joint European Ventures:

- Implementation of project to support the creation of European joint ventures (ECU 5 million)

LIFT (Links to Innovation Financing for Technology):

- Call for tenders for the external operation of a Help Desk to facilitate contacts between investors and players in the field; operational mid-1998

Spirit of enterprise and access to financing :

- Investment fora and training seminars under the Innovation programme (approx. 330 projects to date) and the Brite-Euram programme (five projects to date)
- Establishment of a Biotechnology and Finance Forum
- Paris Round Table on innovation, the creation of businesses and jobs

The regulatory framework and administrative simplification

BEST (Business Environment Simplification Task Force):

- Report to the European Council in June 1998

SLIM (Simpler Legislation for the Internal Market):

- Report to the European Council in November 1997

European Economic Interest Groupings (EEIG):

- Communication from the Commission on the participation of European economic interest groupings in public contracts and programmes financed by public funds
- Practical guide to EEIGs for SMEs under the Regie (European Network of EEIGs) initiative

Education and training

Erasmus Apprenticeship initiative:

- Transnational placement of 70 000 apprentices by 1998

Europass:

- Introduction of sandwich classes in higher vocational education

Campus-Voice:

- Network of partnerships involving 70 universities, six enterprises, seven newspapers and student associations

Form-Inno-Tech:

- Founding principles for the establishment of a European network drawn up in September 1997; aimed at enterprises and establishment of SMEs

Train-Re-Tech:

- Increased cooperation between the Training and Mobility for Researchers programme and the Leonardo programme; continuation of the fifth RTD framework programme
- Development of the Training and Mobility of Researchers network

Gearing research to innovation

Fifth RTD framework programme:

- Concentrated key actions as an integral part of the framework programme
- Promotion of innovation within thematic programmes

Integrating SMEs into the EU's fifth RTD framework programme:

- Horizontal programme 'Innovation and Participation of SMEs'
- Some 9 000 SMEs have participated in the fourth framework programme over a period of two and a half years

Improved gearing of research to standardization:

- Working document on research and standardization

Prosoma Esprit:

- Access to RTD results on CD-ROM and the Internet

European technology-transfer initiative at the Joint Research Centre (JRC):

- Phasing in of the initiative from 1998, with provision for monitoring developments and evaluating results

Strengthening overall coordination of innovation policy

Establishment of mechanisms for coordinating implementation:

- Group of Directors-General for Innovation
- Commission Communication on coherence, competitiveness, RTD and innovation policy in preparation

Trend Chart on innovation in Europe

- Project and work schedule confirmed in November 1997

2.2. Priorities for action in 1998

2.2.1. Continued implementation of the Action Plan will remain one of the Commission's top priorities, in particular in the following fields:

- intellectual property,

- access to financing,
- administrative simplification,
- developing the spirit of enterprise.

2.2.2. With that objective in mind, emphasis will be put on actions aiming at:

- mobilizing Member States and the operators concerned, in particular through their participation in the elaboration of the Trend Chart on innovation;
- fostering the creation, development and growth of companies, in particular of those based on new technologies;
- encouraging new production and trading patterns;
- supporting the acquisition of professional skills by innovation support specialists, in particular through training in the areas of technology brokerage, technology transfer and financial analysis of stocks;
- facilitating the interconnection or, whenever necessary, the setting up of private and/or public networks to support and advise firms in the area of technology, marketing, management, information and finance.

2.2.3. Information sheets on the actions described above are appended to the communication.

3. General comments

3.1. In the present opinion the Economic and Social Committee focuses on making a number of general observations on the Commission document and commenting on the priorities for action in 1998 listed therein. Reference is made to measures already under way only to the extent that there is something fundamentally new to note about them. The Committee has already adopted or is currently drawing up a number of opinions that touch on the Action Plan on innovation policy.⁽¹⁾ The present opinion draws on the views expressed in these opinions without actually repeating them.

3.2. The publication by the Commission of an annual report on the Action Plan on innovation, together with proposals on priorities for action, is clearly beneficial both to the parties directly involved in such activity and

⁽¹⁾ Opinion on the Green Paper on innovation, OJ C 212, 22.7.1996. Own-initiative opinion on the impact on SMEs of the steady, widespread reduction in funds allocated to research and technological development in the EU (at Community and national level), OJ C 355, 21.11.1997, p. 31. Opinion on the Proposal for a Council Decision concerning the rules for the participation of undertakings, research centres and universities and for the dissemination of research results for the implementation of the Fifth Framework Programme of the European Community (1998-2002) and the Fifth Framework Programme of the European Atomic Energy Community (Euratom) (1998-2002).

those who are interested in it. More attention needs to be paid to presentation, however. Despite its conciseness the communication is rather difficult to understand for people who are not familiar with the subject, especially since the classification it employs differs from the one used in the Action Plan. Moreover, no justification is given for the priorities for action in 1998 nor is there any description of the measures required.

3.3. In order to make the report easier to read, the Committee proposes the inclusion of a separate summary table with three columns headed as follows:

- priority measures;
- progress made with regard to each measure; and
- planned action in the following year.

Objectives and priorities of EU innovation policy

3.4. High unemployment is one of the most serious problems facing Europe. It is therefore both right and necessary that innovation policy be used to alleviate this problem as well. Countries which invest more on education and training, research, innovation and new technology also generate more new jobs.

3.5. Innovation is essentially a cultural issue. This should be given more emphasis in the Commission's Action Plan. It has to do with attitudes and society's willingness to renew itself, the way people relate to change and risk, entrepreneurial spirit and dynamism in general. Developing education and training and strengthening their connections with firms and the world of work play a key role in this regard.

3.6. It is important for the success of innovation that at the workplace there is wide involvement in all aspects of the innovation process and that work organization is such that it fosters participation by each individual and the development and utilization of the skills and know-how of each individual.

3.7. It is customary in Europe to focus particular attention on the need to ensure that due regard is also paid to social cohesion in the process of structural change in the economy. This need is now formally recognized in the Amsterdam Treaty. Social dialogue between the social partners can play a major role in this process.

3.8. Job creation takes place primarily in small and medium-sized enterprises, craft industries and micro enterprises. They are close to markets and can adapt and respond quickly to people's needs. Improving the ability of SMEs to participate in all aspects of the innovation process is a top priority. The ESC has drawn

attention to various aspects of this question in a number of opinions.⁽¹⁾ The creation of business networks and particularly cooperation between small and large firms can make a major contribution in this connection.

3.8.1. It would be useful in implementing the Action Plan to apply the three-fold classification of SMEs into those which develop technology, those which exploit new technology and passive enterprises which is presented in more detail in the above-mentioned opinion. A practical proposal based on this classification is given below in point 5.1.4.

3.9. Innovation policy is a highly complex sector and operates at many levels. It involves enterprises and other individual operators at local, regional, national and Community level. In its opinion on the Green Paper on innovation, the ESC stressed that the EU should give first priority to those issues which fall within its competence, that is issues related to the regulatory framework at EU level, the single market, the structural funds and research programmes. The ESC would reiterate that human resources and financing allocated to these areas must be given clear priority.

3.10. The EU can take action in areas falling within the sphere of activity of Member State, regions or market operators only if this generates added value or political mobilization is called for. Among the decentralized areas typically associated with the innovation system are funding, education and training; the formation, development and research activity of firms; and universities and other research centres. The EU's primary task in these areas should be the collation and provision of comparable data, the creation of opportunities for exchange of experience and the establishment of networks of partnerships between organizations providing information, educational and advisory services in Member States and, where necessary, the coordination of national and regional action.

First Action Plan on Innovation

3.11. The ESC notes with satisfaction that the Action Plan echoes many of the views set out in its opinion on the Green Paper on innovation.⁽²⁾ Since, however, the ESC has not had an opportunity to deliver a separate opinion on the Action Plan for

innovation in Europe, the following comments on the Action Plan are presented below.

3.11.1. Given the importance of promoting innovation, it is essential to have an effective and smoothly functioning Action Plan. So far, however, the Commission's first Action Plan and its implementation give the impression of being somewhat fragmentary and lacking in direction. Whilst recognizing that the promotion of innovation is a complex and thus difficult task, the Committee is nevertheless concerned about the effectiveness of the Action Plan in its present form.

3.11.2. The Action Plan is very largely built on research activity and exploitation of research results, and in particular the EU's fifth RTD framework programme. Most of the measures are designed to improve opportunities for and remove obstacles to exploitation of research results.

3.11.3. But not all innovation is research-driven. The Action Plan completely ignores one part of the innovation system which is at least equally important, namely markets. Recognition of market needs and marketing within and outside the EU must be developed in enterprises parallel with the development of supply in the technology field. This should be stated explicitly in the Action Plan, even though a large proportion of potential measures in this area, such as those related to education and training, do not fall within the competence of the EU.

3.11.4. The effective functioning of the single market is, however, one area which clearly falls within the EU's competence and is vital for the success of innovation. Though this applies to all market segments, the problems are particularly acute in those sectors which are still partially or totally closed to competition. Areas where development has most clearly lagged behind that of leading competitors are telecommunications and information technology in general, i.e. those sectors with the highest level of innovation.

3.11.5. The Structural Funds are the most important resource which the EU has at its disposal for fostering regional economic development, cohesion and a steady improvement in living conditions in Europe. The use of the structural funds to foster innovative activities should also be one of the main tools of innovation policy at EU level in the future. This would also be the best way to promote employment, which, in the view of the ESC, should be the prime objective of the structural funds reform. At the moment the Action Plan only mentions this possibility.

3.11.6. All projects supporting the development of the information society in Europe are also important from the point of view of improving innovative activity. The information society offers a favourable environment for innovative activity and creates both demand and the

⁽¹⁾ Own-initiative opinion on the impact on SMEs of the steady, widespread reduction in funds allocated to research and technological development in the EU (at Community and national level), OJ C 355, 21.11.1997, p. 31.

⁽²⁾ OJ C 212, 22.7.1996.

necessary conditions for the emergence of new products and services.

Implementation of the Plan

3.12. The ESC welcomes the fact that implementation of the Action Plan has commenced on such a broad front. In particular, the Committee notes with satisfaction that a major part of the measures which have been initiated fall under the priority area of action aimed at establishing a legal, regulatory and financial framework conducive to innovation. The ESC considers measures in this area to be of prime importance because, as noted in point 3.9, they fall specifically within the EU's competence.

3.13. The ESC would point out that not even in the priorities for action in 1998 does the communication make any mention of taxation, technology foresight, competition, structural funds, etc., all of which are identified as areas for action in the Action Plan. It would be useful if the Commission could make known its intentions as regards measures in these areas, for example when outlining the priorities for action in 1998.

3.14. It is not intended to grant separate appropriations for the Action Plan. Instead, action will take the form of horizontal measures, coordination and revisions to the content of existing programmes. In its opinion on the Green Paper on innovation, the ESC endorsed precisely this kind of approach, but considered it necessary to make additional funding available for the dissemination and exploitation of RTD results within the framework of the (fourth) framework programme. To what extent have these views been taken on board in the proposals concerning the fifth framework programme?

3.15. As innovation policy is horizontal by nature, cooperation and coordination between the Commission's DGs is a *sine qua non* for successful action at EU level. The indications are that the Group of Directors-General has already made good progress in this regard. The ESC calls for a further strengthening of cooperation so that concrete results can be achieved.

3.16. The Commission has set up a Group of Senior National Officials to guide preparation of the Trend Chart on innovation performance and policies in Europe. The ESC feels the Group should be enlarged to form an Innovation Platform which would bring together experts representing various interest groups in society, give its views on key problems and priorities and serve as a forum for the exchange of effective methods and practices.

3.17. Evaluation and the measures it gives rise to must form an integral part of the management of the Action Plan. This requires the active deployment of

effective, wide-ranging instruments, including in particular the expertise of the Innovation Platform mentioned above. The ESC must be involved in a constructive way in the evaluation process.

4. Specific comments on the Action Plan

4.1. *Protection of intellectual property rights*

4.1.1. The Green Paper on patents. The Committee has adopted a separate opinion on this subject⁽¹⁾.

4.1.2. Intellectual Property Right (IPR) Help Desk. The service as such is necessary but the ESC nevertheless recommends that use of the Help Desk be monitored closely in order to determine whether this kind of centralized solution corresponds to users' needs or whether preference should be given to the provision of decentralized services at national or regional level.

4.2. *Innovation financing*

4.2.1. I-TEC pilot project. The project and the way in which it is implemented seem well-founded, but it is too early as yet to comment on the practical experience gained.

4.2.2. LIFT project. This seems to be a necessary action but here, too, the project has not yet advanced to a stage where there is enough experience for results to be evaluated. Rather, the focus for the time being must be on monitoring the project and, in particular, the effectiveness of a centralized solution.

4.2.3. Entrepreneurship and access to financing for advanced technologies. A number of worthwhile initiatives have already been launched in this very important area. It is still too early to evaluate results; the 'results' presented by the Commission refer to the measures implemented rather than to final results.

4.3. *The regulatory framework and administrative simplification*

4.3.1. Communication on EEIGs. Public procurement can play an important role in promoting innovation, and this is a factor which the Commission should emphasize in the future. EEIGs, for their part, are a key instrument as regards organizing firms' activity in the innovation field. Accordingly, a communication which highlights these aspects is to be welcomed.

4.3.2. Regie Action. Networks of this kind are necessary. However, the initiative seems to be progressing very slowly.

⁽¹⁾ OJ C 129, 27.4.1998.

4.4. *Education and training*

4.4.1. The Campus-Voice, Form-Inno-Tech and Train-Re-Tech initiatives are all aimed at key components of the innovation system. The ESC considers them to be pilot projects which can serve as a source of experience and ideas for programmes at national and even EU level. It is important to evaluate the projects implemented under these initiatives and draw practical conclusions, including where necessary the discontinuation of less successful projects.

4.5. *Gearing research to innovation*

4.5.1. The planning of action at EU level in the years ahead is in its final stages as the key decisions concerning the Fifth RTD framework programme have almost been finalized. The ESC has adopted or is currently drawing up a number of opinions on this subject⁽¹⁾.

4.5.2. The Commission notes that the EU's RTD efforts face four handicaps: insufficient investment in research; fragmentation; shortcomings in identifying the needs of society and emerging markets; and insufficient linkage between research and its applications. Proof of the existence of the last two handicaps is provided by, for example, the fact that Europe has lost market shares in the fastest growing sectors, in particular. The better research is able to respond to the needs of the marketplace, the smaller are the problems associated with funding research: the resources invested can be quickly recouped from the market.

4.5.3. Integrating SMEs into the framework programme. In its opinions the ESC has repeatedly highlighted the importance of this type of action. Whilst the increased participation of SMEs is a positive development, the goals set for action in this area must be more ambitious.

4.5.4. Improved gearing of research to standardization. Although the Commission working document marks an important stage in the implementation of Community policy on standardization, measures in this area should go further and have a wider range of application. When research projects are launched,

whether at EU level or some other level, standardization must be taken into account from the outset, either by seeking to ensure compatibility with existing standards or being aware of future standardization needs.

4.5.5. Prosoma. The purpose of this interesting initiative seems to be to facilitate the dissemination of research results. It is too early at this stage to draw any conclusions about the experience gained.

4.5.6. Technology transfer initiative at the Joint Research Centre (JRC). The ESC supports all measures aimed at promoting exploitation of research carried out at the JRC. The results would be even better if, from the very beginning, the JRC and its activities were market-oriented.

4.6. *Strengthened overall coordination*

4.6.1. Trend Chart on innovation in Europe. The Trend Chart is designed to serve as a tool for analyzing innovation policy. This is need for a tool like this, given the very complex nature of innovation policy and the fact that the instruments at its disposal are still only partly developed.

5. **Priorities for action in 1998**

5.1. The criteria used for establishing priorities are not stated explicitly in the Commission document. Notwithstanding this, the four priority areas identified — intellectual property, financing, administrative simplification and developing the spirit of enterprise — are important and of topical interest.

5.1.1. In the field of intellectual property, there is a particularly urgent need for regulations to ensure the effective functioning of the information society, including electronic commerce, and for action to address issues in the biotechnology sector. The Commission should also take a leading role in advocating the harmonization of the patent system on a global basis, all the more so if the EU develops into a single patent area.

5.1.2. In order to improve financing of innovation, the EU and the Member States must create an effective regulatory framework and put in place a system of general incentives. It would be useful in this context to identify the obstacles to financing in the various Member States. Direct financing by the EU and Member States should be limited to the provision of seed capital.

5.1.3. As regards administrative simplification several studies have been carried out and a number of programmes launched. The ESC has addressed this issue in a number of opinions and endorsed measures aimed at simplification. Rather than spend more money on new

⁽¹⁾ Opinion on the Commission Working Paper: Towards the Fifth Framework Programme — scientific and technological objectives, OJ C 355, 21.11.1997, p. 38; Opinion on the amended proposal for a European Parliament and Council Decision concerning the Fifth Framework Programme of the European Community for research, technological development and demonstration activities (1998-2002), OJ C 73, 9.3.1998, p. 133; Opinion on the specific programmes of the Fifth Framework Programme for R&TD (in preparation); Opinion on the Proposal for a Council Decision concerning the rules for the participation of undertakings, research centres and universities and for the dissemination of research results for the implementation of the Fifth Framework Programme of the European Community (1998-2002).

studies, efforts should henceforth focus on implementing plans and dismantling unnecessary administrative obstacles at EU and national level.

5.1.4. As for developing the spirit of enterprise, the ESC would refer to the comments made in point 3.9. In the view of the ESC, it would be useful to apply the classification proposed in point 3.8.1 in seeking to increase the innovative capacity of SMEs of various kinds. The Committee further proposes the launching of pilot projects for the development of technology brokerage bodies in areas where they do not already exist. These bodies could be associations or individuals, such as chambers of commerce and consultants, which either possess the relevant expertise themselves or act as intermediaries for the transfer of such expertise and which, on demand, would assist SMEs in the acquisition of appropriate technology, partners (large firms, individual researchers, etc.) and funding. With the aid of the Commission, these intermediaries could be organized into EU-wide networks.

5.2. The five objectives mentioned at the end of the communication deserve the Committee's support. However, the Commission does not make it very clear what action it is intended to take in each of these areas. All of the areas concerned fall largely within the competence of the Member States, and so the need for and planning of action at EU level must be examined very carefully.

6. Conclusions and recommendations

6.1. The Committee feels it is useful to publish an annual report on implementation of the Action Plan on innovation. However, the first report is rather difficult to read. The ESC therefore proposes that the readability of the report be improved by the addition of a summary table setting out the priority measures, the progress made for each measure and planned action for the following year.

6.2. More still needs to be done to improve the capacity of small and medium-sized enterprises, craft industries and micro enterprises to participate in the innovation process as a whole. In order to develop the

spirit of enterprise, which is one of the priorities for action in 1998, the ESC proposes the launching of pilot projects for the development of technology brokerage bodies in areas where they do not already exist. They would assist SMEs in the acquisition of technology, partners and funding. In the view of the ESC, it would be useful to apply the three-fold classification of SMEs into those which develop technology, those which exploit new technology and passive enterprises.

6.3. The Action Plan completely ignores the fact that markets are an extremely important part of the innovation system. The ESC considers it important to note that the effective functioning of the single market, the responsibility for which lies clearly with the EU, is a *sine qua non* for successful innovation.

6.4. The use of the structural funds to promote innovation should also be a key instrument of innovation policy at EU level. This would also be the best way to improve employment, which the ESC considers to be the prime objective of the structural funds reform.

6.5. In the view of the ESC, EU innovation policy should focus primarily on those issues which fall within the competence of the EU, i.e. those related to the regulatory framework at EU level, the single market, the structural funds and research programmes. The EU can take action in areas falling within the sphere of activity of national or regional authorities or market operators where such action generates added value. The EU's primary role in these areas should be to collate and disseminate comparable information, provide opportunities for the exchange of experience, establish partnership networks and, where necessary, coordinate national and regional measures.

6.6. The effective implementation of the Action Plan on innovation in Europe calls for a broad-based approach towards the identification of problems and priorities and evaluation of results which draws on available expertise in this area. To this end, the ESC proposes the setting up of an Innovation Platform comprising the Group of Senior National Officials augmented by experts representing different interest groups in society. The Platform could serve as a forum for the exchange of experience and coordination between Member States and other relevant players.

Brussels, 27 May 1998.

The President
of the Economic and Social Committee
Tom JENKINS

Opinion of the Economic and Social Committee on the 'Proposal for a European Parliament and Council Directive amending Directives 89/48/EEC and 92/51/EEC on the general system for the recognition of professional qualifications and supplementing Directives 77/452/EEC, 77/453/EEC, 78/686/EEC, 78/687/EEC, 78/1026/EEC, 78/1027/EEC, 80/154/EEC, 80/155/EEC, 85/384/EEC, 85/432/EEC, 85/433/EEC and 93/16/EEC concerning the professions of nurse responsible for general care, dental practitioner, veterinary surgeon, midwife, architect, pharmacist and doctor (presented by the Commission)' ⁽¹⁾

(98/C 235/11)

On 16 December 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 Social, Family, Educational and Cultural Affairs, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 15 May 1998. The rapporteur was Mrs Sigmund.

At its 355th plenary session (meeting of 27 May 1998) the Economic and Social Committee adopted the following opinion with 115 votes in favour and two abstentions.

1. Introduction

With the SLIM initiative (Simpler Legislation for the Internal Market) the Commission has initiated a process under which small working parties of experts draw up proposals for measures to simplify internal market law in the broadest sense. Under the 1996 pilot project four working parties were set up, one of which was concerned with the law on mutual recognition of qualifications. This working party submitted its report in October 1996. The report's recommendations can be summarized as follows:

- The sectoral directives should be retained.
- The advisory committees should in principle be retained, but the appointment procedure should be simplified, they should be scaled down and their working methods should be improved.
- The legal and administrative formalities associated with recognition in some Member States should be re-examined and, where necessary, simplified or clarified.
- The procedure for updating the lists of qualifications eligible for automatic recognition should be simplified.
- The provisions of the sectoral directives concerning general and vocational training should be more skill and results-orientated, rather than relying strictly on training content.

With the current proposal for a directive the Commission is implementing some of the proposals of the SLIM group of experts. In the explanatory memorandum to the proposal the Commission announces formal

decisions for 1998, with which the proposals for rationalization of the advisory committees will be implemented.

2. General comments

2.1. The Committee congratulates the Commission on the proposal for a directive, which, the Committee feels, contributes to making the work of the Union more transparent and efficient, without however endangering citizens' interests which need to be protected.

The Committee regards this Commission proposal as an important contribution to the confidence pact for employment.

2.2. In the explanatory memorandum to the current proposal the Commission looks in detail at the reform of the advisory committees on the health-care professions.

The following points are raised:

- Simplification of the appointment procedure;
- Reduction of the number of members;
- Extension of the term of office;
- Extension of remit.

2.3. The operative part of the directive can be summarized as follows:

- The concept of 'regulated education and training' contained in the second recognition directive (92/51/EEC) is incorporated into the first recognition directive (84/48/EEC) (Article 1).
- The coordinating group is empowered to issue opinions (Article 2).

⁽¹⁾ OJ C 28, 26.1.1998, p. 1.

- The simplified procedure for the updating of the list of qualifications eligible for automatic recognition contained in the ‘doctor’s’ directive is extended to all sectoral directives; the only exception is the ‘architects’ directive, for which a separate, proven procedure is provided (Article 3).
- The situation of migrants, who are nationals of a Member State but who obtained their qualifications outside the European Union, is to be clarified (Article 5).
- A right of appeal against decisions of the Member States on applications for recognition is introduced (Article 6).

3. Specific comments

The document submitted for the Committee’s opinion contains information of varying legal status. For example, the text relating to the discussion of reform of the advisory committees is purely for information, as the relevant decisions have not yet been adopted. On the other hand, the draft directive contains specific proposals for a binding text.

3.1. *Reform of the advisory committees*

Before discussing the Commission’s specific proposals, it seems worthwhile to give an account of the membership and working methods of the committees operating within the ambit of the sectoral directives.

The members of the advisory committees are experts with an advisory remit. At the time they were established, the primary objective of these committees was to promote and ensure a comprehensive exchange of information on the structure and content of training methods. This need for information has now to a great extent been met. The relevant SLIM team has therefore now recommended that in future a more results-orientated and vocation-specific approach be adopted.

The committees of senior officials, which differ in their working methods from the advisory committees, are not affected by the SLIM team’s reform proposals. In contrast to the advisory committees, the committees of senior officials have decision-making powers and work in the framework of the committee procedure.

3.1.1. *Simplification of the appointment procedure*

At present each Member State forwards its list of experts to the Council, which makes the formal appointment decision. This has proved to be an extremely time-consuming procedure, which in extreme cases has been completed only a short time before the mandate of the relevant committee was due to expire, as the Council waits for all the lists to be submitted before taking a

decision. Thus, in some cases the committee’s work has been compromised from the outset for purely formal reasons.

The Committee therefore wholeheartedly supports the Commission’s proposal that the procedure be simplified by allowing the Member States to forward the names of their representatives directly to the Commission.

3.1.2. *Reducing the number of members*

At present each Member State provides three full members (one representative each from the profession, the educational sector and the responsible authority) and three alternate members, so that each committee has ninety members.

The Committee shares the view of the SLIM experts and the Commission that the committees should be scaled down in the interests of greater efficiency. Another important consideration is costs. When the EU is again enlarged each committee will gain another six members per new Member State!

The Commission’s proposal to restrict membership of the committees to one full member and one alternate (one from the profession and one from the education sector) per Member State seems balanced and appropriate to the tasks of the committees.

In view of the changed tasks of the advisory committees, already referred to above, and the Commission’s reaction to this, in extending their mandate and making this more practically orientated, it would be logical for the Member States to appoint representatives of the profession in question as full members of the advisory committees. It would not appear appropriate, nor consistent with the Commission’s wish for a more practical orientation, to leave it to the Member States to decide whether full members of the committees should be drawn from the profession itself or from training institutions.

It should be clearly understood that the Commission, in adopting the SLIM proposals, has radically altered the mandate of the advisory committees (hitherto focused on the co-ordination of syllabuses) and added new responsibilities which in the light of current objectives could best be tackled by representatives of the profession.

The Committee calls on the Commission to make its views clear on this issue and to ask the Member States to appoint mainly practitioners as full members.

As the experts of the responsible authorities are already represented on the relevant committees of senior officials, which are in any case in contact with the advisory committees, reducing the number of members

of the advisory committees is also consistent with the administrative adjustments desired by a number of Member States.

The Committee feels however that organizational measures are needed to ensure close and continuous cooperation between the two types of committee. Thus for example, at least one joint meeting could be held per year.

3.1.3. The extension of the life of the committees from three years to six is, in the Committee's view, a necessary consequence of the restructuring of the advisory committees, as in this way the initial difficulties arising from renewal of the committee's membership can be mitigated.

3.1.4. The extension of the remit of the advisory committees to cover all opinions requested by the Commission in relation to freedom of establishment in the various vocations covered by the sectoral directives is a decisive measure. All measures adopted in the framework of SLIM or as a consequence of this must ultimately be regarded as part of the Commission's wide-ranging internal market plan.

3.2. *Regulated education and training* (Article 1)

The adoption of the concept of 'regulated education and training' into the first recognition directive is to be welcomed as a contribution to the objective of uniform terminology, as the term is already used in the more recent second directive.

The inclusion of the term in Directive 89/48/EEC is also consistent with the wish for a more results- (and vocation-) orientated approach in the framework of the general rules on recognition. This will facilitate freedom of movement for many young citizens wishing to migrate.

3.3. *Opinions of the coordinators* (Articles 1 and 2)

The Committee welcomes the pragmatic approach spelt out by the Commission. It would be worthwhile making use of the experience of organizations responsible for the practical application of the directive and in this way accelerating uniform application and interpretation.

The Committee supports the trend towards making the coordinating group into a sort of consultative body for the Commission.

3.4. *Updating of lists of qualifications* (Articles 3 and 4)

Under the proposal the Member States are required to notify the Commission of all national laws and regulations adopted as regards the award of diplomas, certificates and other evidence of formal qualifications.

The Commission will publish the names adopted by the Member States for the training qualifications concerned in the Official Journal.

As this procedure has already proved itself in the field of general medicine, the Committee considers it appropriate and correct to extend it to the other sectoral directives in the health care field.

3.5. *Treatment of qualifications obtained by nationals of the Member States outside the EU* (Article 5)

The Commission rightly states in the Explanatory Memorandum to Article 5 that each Member State remains free to recognize a qualification obtained outside the EU and that its decision is not binding on the other Member States.

This is consistent with the case law of the European Court of Justice, which states explicitly that a Member State is not bound by the recognition of a third country qualification by another Member State, but that it must take account of any experience gained within the Community subsequent to recognition⁽¹⁾. The Court of Justice was clearer still in its judgment in the Tawil-Albertini case⁽²⁾, in which it stated that 'recognition by a Member State of qualifications awarded by non-Member States, even if they have been recognized as equivalent in one or more Member States, does not bind the other Member States'.

The Committee recommends that the wording of Article 5 be clarified, as it is at present not clear that the recognition of a non-Community qualification by a Member State is not automatically binding on the other Member States.

The phrase 'take account' used in Article 5 does leave some room for interpretation, as the law generally considers that 'taking account' is only part of a decision-making process.

However, in the interests of greater clarity, the Committee recommends that the first sentence of Article 5 be reworded as follows:

'Member States shall, as part of the process of assessing equivalence, take account of ...'.

3.6. *Right of appeal* (Article 6)

The Committee wholeheartedly welcomes the introduction of a right of appeal against decisions of the Member

⁽¹⁾ Judgment of the Court of 9 February 1994. Salomone Haim v. Kassenzahnärztliche Vereinigung Nordrhein. Case C-319/92.

⁽²⁾ Judgment of the Court of 9 February 1994. Abdullah Tawil-Albertini v. Ministre des Affaires sociales. Case C-154/93, quotation from Haim case, point 21.

States, and also in the event of failure to reach a decision. This basic democratic right of citizens is reflected in the general principles of Community law.

3.7. Articles 7 to 21

The Committee has deliberately not commented on the specific changes to the sectoral directives. It considers that its priority should be to comment, in as concerted a form as possible, on the changes of principle proposed by the Commission, and for this reason it feels that it

should refrain from discussion of essentially uncontroversial adjustments.

4. Final comments

The Committee in principle endorses the Commission proposal as it considers this to be an important instrument for simplification of the law and greater transparency.

The proposed measures for simplification of work will, apart from making for an improved cost/benefit relationship, accelerate work processes and thus strengthen citizens' confidence in Europe.

Brussels, 27 May 1998.

*The President
of the Economic and Social Committee*

Tom JENKINS

Opinion of the Economic and Social Committee on the 'Communication from the Commission to the Council and the European Parliament "The Future for the Market in Fisheries Products in the European Union: Responsibility, Partnership and Competitiveness"'

(98/C 235/12)

On 22 December 1997 the Commission decided to consult the Economic and Social Committee, under Articles 43 and 198 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for Agriculture and Fisheries, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 May 1998. The rapporteur was Mr Chagas.

At its 355th plenary session (meeting of 27 May 1998), the Economic and Social Committee adopted the following opinion by 103 votes with six abstentions.

1. Introduction

1.1. The aim of the communication from the Commission is to lay the foundations for a debate on the amendments to be made to the common organization of the market (COM), in order to improve market functioning and bring this aspect of the Common Fisheries Policy (CFP) into line with changes on the fisheries products markets.

1.2. The Commission is to submit proposals for improving the operation of the COM at a later stage.

2. General comments

2.1. The Committee welcomes the Commission's communication, and in particular its statement that it

will submit the document to a broad institutional debate and wide-ranging consultation with the principal actors in the fisheries sector (vessel owners, workers, industry, consumers).

2.2. The Committee recalls that the COM was set up under Regulation (EEC) No 2142/70⁽¹⁾, which outlined the general principles governing this aspect of the Common Fisheries Policy, and which has been adjusted over the years when necessary. The most recent adjustment was made by the basic regulation which came into force on 1 January 1993⁽²⁾.

⁽¹⁾ OJ L 236, 27.10.1970, p. 5.

⁽²⁾ OJ L 388, 31.12.1992, p. 1.

2.3. The COM has many parallels with the Common Agricultural Policy (CAP) — on which it is largely modelled — and shares certain of its objectives, such as market stabilization, guarantee of supplies and reasonable prices. The COM also complies with the same principles: market unity, financial solidarity and Community preference.

2.4. Unlike the CAP, the COM has been affected by the binding in GATT of the entire customs tariff for fishery products. This was a political choice, decided at the Dillon Round of GATT negotiations in the 1960s, and the difficulties it has caused are well known; it has also made it impossible for the Commission to increase tariff protection. Further concessions were made in subsequent rounds.

2.5. As the common customs tariff is bound in GATT, the COM for fishery products operates under market economy conditions, making it impossible to restrict imports from third countries or adjust production aid, with the exception of the safeguard measures under GATT rules. This does not mean that the principle of Community preference is not fully implemented, or that the customs tariff for fishery products is not carefully applied: whenever protection of Community production is reduced, it is counterbalanced by concessions by third countries which are of direct benefit to the fisheries sector.

2.6. The COM alone cannot solve the range of problems affecting the sector.

2.7. It should be borne in mind that the main imbalances in the sector spring mostly from overcapacity in relation to available resources, which in turn do not match demand, excessive debt, high levels of exploitation, low productivity and, to some extent, inadequacies in marketing channels. These internal, structural factors, considerable in themselves, are aggravated by external factors such as market globalization, the lowering of tariff barriers and/or the dismantling of obstacles to trade, competition from other products, and lower transport costs which bring European markets within range of the sector's main competitors.

2.8. For EU fisheries to survive on a viable basis, resources must be exploited rationally and integrated measures must be adopted covering all aspects of the Common Fisheries Policy.

2.9. The Committee assumes that the Commission will ensure that the measures currently proposed under

the COM are fully consistent with identical measures, already taken or to be adopted, in connection with the other aspects of the Common Fisheries Policy, particularly concerning structures, resources and monitoring.

2.10. The Committee would also point out that as part of the broad-based approach mentioned above, future adjustments to the COM in fishery products must be matched by socio-economic support measures to facilitate their adoption by the sector. In this respect, it is also important for producers' organizations to be present and active in all Member States involved in the fisheries sector.

2.11. The aim of the COM for fishery products is to regulate market competition, preventing unfair competition by third countries while respecting the Union's international commitments.

2.12. The European Union and the Member States must use the instruments available to them more rigorously to prevent fishery resources being marketed within the Community with total disregard to the established rules, in unfair competition with our operators. This situation is unacceptable, as both the fisheries sector and the ESC have argued on several occasions. There are many shortcomings in the checks on the application of the current rules, which are in part responsible for the unsettled conditions in the sector.

2.12.1. Application of current provisions governing imports must be checked more strictly, particularly with regard to hygiene and health requirements, labelling and minimum fish size (immatures).

2.13. As for other products in similar circumstances, matching offer and demand is the decisive factor in determining producer income. Producers must draw the appropriate conclusions, and the COM intervention mechanisms should be in a position to fulfil this regulatory role, especially since catches are by nature unpredictable.

2.14. The Committee notes that EU per capita fish consumption has risen continuously, but very modestly, over the last few years of the 1990s, and that consumption patterns vary widely, particularly for fresh fish.

2.15. Positive steps can be taken to encourage the European public to eat more fish, which would also contribute to healthier eating patterns: promotion of fishery products is an aspect which COM reform

must under no circumstances overlook. Producers' organizations should make more frequent use of existing Community incentives to support campaigns promoting fish consumption and publicity campaigns for the consumption of new species.

2.15.1. The price factor could also play a key role in meeting this objective on a lasting basis.

2.16. Producers' organizations and the entire commercial sector downstream of them must also take steps to improve market transparency and recognize the strategic importance of consumer information.

2.16.1. The Committee agrees that optimization of production and greater transparency in commercial relations depend on the adoption of measures concerning the trade name of species, their origin, production method and degree of freshness.

2.16.2. The Committee hopes that the proposals on the vertical integration of the sector will be put forward as soon as possible.

2.17. The Committee fully supports the principle of responsible fishing and trading.

2.17.1. The Committee considers that the promotion of good practice, in both sea catches and aquaculture and marketing, could help to raise standards generally, and more specifically could help Community production to compete with third countries.

2.18. Concentrating supply, by encouraging fishermen to land their catches in ports equipped for control operations, could act as a powerful deterrent to illicit practices.

2.19. The Committee expresses some reservations concerning the wording of point III.A.4(b) on fishery products which comply with the rules of 'environmental protection'. It believes that this concept needs proper clarification, as it could be misused to sanction practices which distort competition.

2.20. If the growing and increasingly fierce competition from non-EU producers, and from EU fish farm produce (which is booming, even for high-value products), is to be met successfully, the sector must make a real commitment to a quality-based policy capable of satisfying consumer demands.

2.21. The Committee agrees that support should be given to actions smoothing the flow of supplies — in good condition and of good quality — from Community production to the processing industry, given the complementary nature of the two sectors. The use of supply contracts would appear to offer an appropriate solution here.

2.21.1. The aim is to avoid distortions of competition given tariff concessions granted to third countries to gain access to the Community market, and the advantages they enjoy in terms of lower production factor and raw material costs.

2.22. In a context of scarce resources, the Committee agrees that in broad terms the sector should begin to give serious thought to abolishing incentives for withdrawal-destruction, so as to encourage producers to make more systematic use of withdrawal-carryover, as has been the case for some farm produce. Innovation in the creation of new products and more sophisticated processing methods should be strongly supported.

3. Specific comments

3.1. It is pointed out, in connection with chapter III A(3), on private storage aid, that in some Member States producers' organizations do not always own their stocks. It must therefore be made clearer to whom storage aid is granted.

3.2. Turning to the trade arrangements with third countries and the adoption of good practice in both the catch and marketing sectors, the Committee considers that the comments on fish caught in international waters should also mention vessels flying flags of convenience.

Brussels, 27 May 1998.

*The President
of the Economic and Social Committee*

Tom JENKINS

Opinion of the Economic and Social Committee on the 'Proposal for a European Parliament and Council Directive amending Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine' ⁽¹⁾

(98/C 235/13)

On 9 March 1998 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 12 May 1998. The rapporteur was Mr Pricolo.

At its 355th plenary session (meeting of 27 May 1998), the Economic and Social Committee adopted the following opinion by 106 votes to four, with five abstentions.

1. Foreword

1.1. The BSE crisis caused widespread alarm and sapped consumer confidence in beef and beef products. The Community was quick to devise a legislative response, and in April 1997 the Council adopted Directive 97/12/EC. This directive updated Directive 64/432/EEC by setting up a computerized database on bovine animals and swine and their movements.

1.2. In tandem with the adoption of Directive 97/12/EC, on 21 April 1997 the Council approved Regulation (EC) No 820/97 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products.

1.3. The aim of these instruments was twofold: firstly, to enable Member States quickly and effectively to exchange information on the identity of animals, their movements and the farms concerned; secondly, to introduce ear-tags and animal passports as a way of tracing the farms or other establishments through which the animal had passed.

1.4. It should be noted that the two instruments, which are closely interlinked, form part of the machinery enabling appropriate communication between the farmer and the database, and full use of the base itself.

2. The Commission proposals

2.1. The Commission's proposed amendment makes the Standing Veterinary Committee (Commission/Com-

mittee procedure) responsible for devising implementing rules for the operation of the computer databases.

2.2. The proposal thus concerns procedural rather than substantive changes, designed to involve one of the Commission's advisory bodies in the administration of this area.

3. Comments

3.1. The Committee notes that one year after the adoption of Directive 97/12/EC and Regulation (EC) No 820/97, the computer database giving an animal's identity, farm and movements is obviously not yet operative.

3.2. The fact that the Commission is now proposing the establishment of implementing rules for the computer database on bovine animals and swine leads the Committee to think that Community rules in this field have not been properly applied hitherto.

3.3. This delay casts doubt on the credibility of the Community and/or national authorities and hardly helps to restore consumer confidence.

3.4. The Committee asks the Commission to present a progress report on EU-wide implementation of both Directive 97/12/EC and Regulation (EC) No 820/97.

3.4.1. The Committee also asks that interested parties be guaranteed appropriate access to the computerized data network. Here the Committee is thinking of farmers', traders' and consumer organizations which have a special interest recognized by their Member State.

3.5. Nevertheless, given that the computerized system has not yet been properly implemented, the Committee supports the Commission proposal on the grounds that

⁽¹⁾ OJ C 100, 2.4.1998, p. 23.

the overriding concern remains the protection of public health.

3.5.1. However, the Committee deeply regrets that the Community rules on health problems in intra-

Community trade in bovine animals have not been fully implemented, and again calls on the Commission to draw up the report mentioned in 3.4 above and submit it to the other EU institutions.

Brussels, 27 May 1998.

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 Community Statistical Programme 1998-2002'

(98/C 235/14)

On 31 March 1998 the Council decided to consult the Economic and Social Committee, in accordance with Article 198 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Economic, Financial and Monetary Questions, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 May 1998. The rapporteur was Mr Vasco Cal.

At its 355th plenary session held on 27 and 28 May 1998 (meeting of 27 May), the Economic and Social Committee adopted the following opinion by 118 votes for, none against and with five abstentions.

1. Introduction

1.1. The Commission is presenting its fifth five-year programme prepared by Eurostat. The programme will be the subject of a Council Decision in accordance with Article 3(1) of Council Regulation (EC) No 322/97 on Community statistics. Regulation (EC) No 322/97 stipulates that the Community should have timely access to statistical information which is comparable between the Member States and is up-to-date, reliable, relevant and produced as efficiently as possible for the design, implementation, monitoring and evaluation of its policies.

1.2. Regulation (EC) No 322/97 also stipulates that the Community's statistical programme must define the 'approaches, the main fields and the objectives of the actions envisaged for a period not exceeding five years'. The Commission continues this policy in its present programme by setting itself the objective of 'providing the European Union with a high-quality statistical information service', and rising to three challenges, viz.: meeting the needs of Community policies, improving cooperation between Eurostat and national statistical services (which together form the Community Statistical Service (CSS), and fixing priorities.

1.3. The Commission identifies four categories of priorities:

- policy priorities of the Community;
- major statistical or infrastructure projects;
- evolutionary maintenance of systems supporting existing policy needs;
- other statistical indicators required.

1.4. The programme will cost between EURO 83 and 95 million per year.

1.5. The programme spells out proposed action in the following key areas:

- Free movement of goods;
- Agriculture;
- Free movement of persons, services and capital;

- Transport;
- Common rules on competition, taxation and approximation of laws;
- Economic and monetary policy;
- Common commercial policy;
- Social policy, education, vocational training and youth;
- Culture;
- Public health;
- Consumer protection;
- Trans-European networks;
- Industry;
- Economic and social cohesion;
- Research and technological development;
- Environment;
- Development cooperation;
- Statistical work not covered by Treaty titles.

1.6. This list follows the order of the titles in the EC Treaty and does not therefore indicate priorities. The Commission does however give clear priority to:

- Economic and Monetary Union,
- Competitiveness, Growth and Employment,
- EU enlargement.

1.7. Last but not least, the Commission indicates not only priorities in each statistical area, but also those actions where Eurostat is experiencing delays or postponements due to financial constraints.

2. Earlier work

2.1. In April 1994⁽¹⁾ the Committee delivered an opinion on the Commission proposal which culminated in the Council Regulation of 17 February 1997⁽²⁾ on Community statistics. In other words the Council needed almost three years before being able to take a final decision on this important matter. The Committee itself

had not expressed any reservations in principle on the Commission proposal.

2.2. In November 1992 the Committee delivered an Opinion on, inter alia, a Proposal for a Council Decision on the framework programme for priority actions in the field of statistical information 1993-1997⁽³⁾. This opinion concluded that there was a certain imbalance between political and methodological priorities and argued in favour of 'an alignment of the capacities of national statistical systems on the highest possible level.' The opinion also cast doubts on the chances of being able to fully implement the 'ambitious' programme of the Commission.

3. General comments

3.1. The Economic and Social Committee welcomes the opportunity to express its views on the Community's fifth statistical programme. The Committee realizes in its daily work how useful it is to have effective and comprehensive statistical services at Community and national levels. The Committee does not intend to discuss the basic characteristics of such services in this present opinion since the matter has already been exhaustively dealt with in Regulation (EC) No 322/97 and in the Committee opinion on the Commission's draft regulation. The Committee would nevertheless emphasize that the European Union needs a statistical system which meets criteria of independence and is adequately funded.

3.2. The Committee considers that the Commission makes a sufficiently clear distinction in the proposal under discussion between methodology and the action to be taken in support of Community policies. The Committee does not however believe that the European Union has hitherto made sufficient progress in harmonizing national statistical systems. In general the harmonization of Community statistics comes after the formulation and implementation of the respective Community policies.

3.3. The Committee regrets in particular that national services continue to divulge statistics which are in no way comparable, even though efforts have been made to give Eurostat the information necessary for comparability. An area where this is particularly evident concerns statistics on employment and unemployment. Far too often the collection of national statistics is based on different interpretations of the harmonized rules on

⁽¹⁾ OJ C 195, 18.7.1994.

⁽²⁾ OJ L 52, 22.2.1997.

⁽³⁾ OJ C 19, 25.1.1993.

statistics agreed at Community level. This can result in Community policies being applied in a discriminatory fashion.

3.4. The Committee approves the Commission's priorities given the inadequate financial resources allocated to Eurostat. It would nevertheless urge that economic and social cohesion be added to the three priorities listed in Article 2 of the proposal for a decision. The existence of reliable and rapidly available regional statistics⁽¹⁾ is indeed absolutely essential for effecting transfers between countries and regions without which there can be no economic and social cohesion — still one of the priority objectives of the European Union.

3.5. The Committee regrets the delay or postponement of action in certain statistical areas resulting from the lack of human and financial resources. An example of such a delay is in the statistics on investment. This is unfortunate in that the interpretation of investment statistics is essential to macro-economic policy and hence to the success of the (economic) growth and (monetary) stability policies pursued on the basis of EC Treaty Article 103. It is also likely to have serious consequences when fines are imposed on certain countries under the Stability and Growth Pact.

3.6. The Economic and Social Committee approves the proposal for a Council Decision, taking into account the general and specific comments which precede or follow this point.

4. Specific comments

4.1. The Committee considers that in Title VI (economic and monetary policy) the Commission should make out a clearer case for the development of a common methodology on the collection of statistics on consumer price trends and purchasing power parities. Purchasing power parities at regional level, together with references to urban centres, merit particular attention. Such statistics are necessary not only to monitor the convergence of Member State policies (Article 103 of the EC Treaty) but also for the needs of Title XIV (economic and social cohesion).

4.2. The Committee wonders whether the Commission could not give a clearer indication of statistical

needs in the interests of the adoption of a definitive VAT regime in the Community.

4.2.1. The choice of a definitive VAT regime, involving taxation in the country of origin and not in the country of consumption, will oblige the Member States to agree on a compensation scheme to avoid losses of revenue. This change will require a more complete harmonization of the macroeconomic aggregates used in national accounts to offset the loss of such information as that provided by the present VAT regime.

4.3. The Committee realizes that the requirement to provide statistics can place a heavy burden on enterprises, particularly SMEs. The cost borne by enterprises could however be substantially reduced:

- by consolidating the statistics required by different administrations,
- by using new information technologies (Internet, etc.) whilst bearing in mind the need to protect confidential information.

4.4. In most cases, however, there are also corresponding benefits since enterprises can make use of the statistics to which they have contributed in defining their marketing strategies, etc. Information campaigns launched in seminars and via the Internet might also bring business leaders to a better understanding of the usefulness of statistics and above all encourage them to make more effective use of statistics themselves. Member States could help trade associations develop software, thereby turning statistics into management tools for the entrepreneur.

4.5. The Committee finds that comparable Community statistics on unemployment and employment are totally inadequate. Not only do methods of collecting statistics vary greatly from one Member State to another, but there is a lack of accurate data on various part-time working schemes, fixed-term contracts and the individual preferences of workers on working hours and the duration of work contracts. Such statistics are vital for the Union's employment policy and for the employment programmes which Member States are required to draw up in this context.

4.6. The Committee agrees that the 'quality of Community statistics is conditioned by the quality of the data provided to Eurostat' and that 'the ultimate goal

⁽¹⁾ Including urban areas, bearing in mind the new proposals for amending the regulations on the Structural Funds.

of the CSS is to meet all needs for statistics in the EU in an integrated and harmonized manner' (see point 2.2 of the Commission document). The Committee therefore feels that it is very important to improve and develop

the CSS, including national statistical institutes, and work out new working methods so as to make available at the right time the statistics necessary for the major policy decisions of the EU.

Brussels, 27 May 1998.

*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 404/93 on the common organization of the market in bananas' ⁽¹⁾

(98/C 235/15)

On 27 January 1998 the Council decided to consult the Economic and Social Committee, under Articles 43 and 198 of the Treaty establishing the European Economic 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 12 May 1998. The rapporteur was Mr Espuny Moyano.

At its 355th plenary session (meeting of 27 May 1998) the Economic and Social Committee adopted the following opinion by 82 votes to 16 with 19 abstentions.

1. Introduction

1.1. In its proposal the Commission amends those aspects of the CMO which have been condemned in the reports of the World Trade Organization's Panel and Appellate Body so as to bring Community arrangements for the import of bananas into line with WTO rules.

1.2. The Commission document is based on the following points:

1.2.1. A tariff quota of 2,2 million tonnes for imports of third country bananas (at a duty rate of ECU 75/t) and non-traditional ACP bananas (nil duty).

1.2.2. An additional tariff quota of 353 000 tonnes at a duty rate of ECU 300/t for third country bananas and ECU 100/t for non-traditional ACP bananas.

1.2.3. The present system of import licences (B licences and allocation by activity) is scrapped.

1.2.4. A system of import licences is proposed based on traditional trade flows (traditional/newcomers method). The arrangements for the practical management of the system will be laid down in the Commission's implementing rules which will be adopted by the management committee procedure.

1.2.5. Should there be no reasonable possibility of securing agreement of all WTO contracting parties with a substantial interest (Costa Rica, Colombia, Ecuador and Panama), the Commission will be authorized to allocate a specific quota to each of these four countries.

1.2.6. The traditional ACP quantities will not be allocated between countries; a maximum quantity of 857 700 tonnes is set.

1.2.7. The proposed additional autonomous tariff quota may be increased if demand in the Community rises as indicated by a balance sheet of production, consumption, imports and exports. The elements of the balance sheet, its adoption and the increase in the additional quota are determined under the management committee procedure.

⁽¹⁾ OJ C 75, 11.3.1998, p. 6.

1.2.8. Should supply of the Community market be affected by special circumstances affecting production or importation, the Commission will adopt the specific measures necessary in accordance with the management committee procedure. In such cases the additional tariff quota may be adjusted and specific measures may be adopted. These measures must not discriminate between supply origins.

1.2.9. The new arrangements enter into force on 1 January 1999.

1.3. The proposal for an amendment of the CMO in bananas is accompanied by a recommendation for a Council decision authorizing the Commission to negotiate with third countries having a substantial interest: Costa Rica, Colombia, Ecuador and Panama.

2. General comments

2.1. The Committee acknowledges the efforts made by the Commission to bring certain provisions of Regulation (EEC) No 404/93 into line with the Community's international commitments vis-à-vis the WTO and the IVth Lomé Convention and in particular its Protocol No 5 on bananas.

2.2. The Committee notes that, as a result of the verdict of the WTO Panel and Appellate Body, it is necessary to amend one of the pillars of the common market organization (CMO) in bananas, namely the system for allocating import licences.

2.3. The Committee notes that in its proposal the Commission is unable to compensate EU and ACP producers for the abolition of import B licences, which were found to have broken GATT rules; the Commission proposal does not provide for any kind of measure to compensate these producers in this respect. The changes in the way of allocating import licences may deprive Community and ACP producers of guaranteed access to the Community market at prices which are reasonable for both producers and consumers, a condition which is a sine qua non for maintaining the income of producers.

2.3.1. The Committee therefore fears that the proposed changes may exacerbate the present employment situation in banana producing regions which already suffer from high unemployment.

2.3.2. Consequently the Committee thinks that the Commission should provide for a 20 % increase in the flat-rate reference income for the calculation of the compensatory aid granted to Community producers so

that they are compensated for the changes in the import system. A legal basis for this necessary reassessment can be found in Article 299 of the new Amsterdam Treaty which allows Community policies to be applied flexibly in very remote regions.

2.3.3. The Committee also considers that the Commission should propose establishing a mechanism which continues to encourage operators to market traditional Community and ACP bananas. This incentive is necessary because the specific conditions under which these bananas are produced, in particular the lack of any economies of scale and the higher social costs, mean that the profit margin on their sale is far smaller than that for Latin American bananas.

2.4. The Committee considers that the sustainable production and marketing of bananas produced under fair social conditions and appropriate environmental conditions should be strengthened. It regrets that no substantial measure is proposed to this end.

2.4.1. The Committee would therefore welcome the proposal by the Commission of a series of support measures for the marketing and promotion of these bananas, including alerting European public opinion to the problems of third world banana producers. Such measures are especially needed because these bananas are grown by small producers who have to contend with much higher production costs than the large multinationals which frequently run an integrated operation from production to import, including transport.

2.4.2. Consumers would also benefit from such measures since, according to information from the survey carried out by the European Commission, bananas produced under proper social and environmental conditions are widely accepted by EU citizens, who are also very concerned at the abusive use of pesticides and other chemical inputs in some parts of Latin America.

2.4.3. An effective control system should be established so that only bananas produced under proper social and environmental conditions can be regarded as such. An international banana charter, codes of conduct and labels could usefully serve this end.

2.4.4. At the same time it will be essential that producers' returns are maintained through appropriate market mechanisms or by direct support to growers. For EU growers this should take the form of enhanced compensatory payments. For ACP producers this should

be through aid in a form which is compatible with WTO, in addition to the structural aid measures for improving the competitiveness of the industry.

2.5. The Committee considers that consumers should be guaranteed a reliable and varied supply of bananas from different geographical sources and different production and marketing methods. For this, the new system will have to ensure that Community, ACP and Latin American bananas co-exist on the market.

2.6. In view of the growth of the Community banana market since the CMO was established and the prospect of future EU enlargements, the Committee thinks that provision should be made for an increase in the quantity of Community bananas entitled to compensatory aid, thus enabling these products to share in the growth of domestic consumption. Otherwise the growth in the Community market will be claimed entirely by third country bananas.

2.7. The Committee considers that the Commission's proposal to allocate a maximum quantity for the traditional ACP countries could unbalance supplies from these countries and that means will have to be found to ensure that no traditional ACP supplier is denied access for its traditional quantities.

2.7.1. Consequently the Committee urges the Commission to find the most suitable formula for ensuring that no one ACP country is penalized in relation to the others.

2.7.2. The Committee notes that the Commission proposal makes no provision for helping resolve the particular issue of Somalia, previously raised by the Committee in its opinion of 30 May 1996 (CES 704/96, points 1.3 and 1.3.1).

The Committee believes that assigning a large specific quota to Somalia, on an exceptional, one-off basis, is the only possible way of contributing to the economic and social recovery of the country, which is continuing to suffer an acute crisis as a result of the civil war and the disastrous floods of 1996, which destroyed almost half the area under cultivation.

3. Specific comments

3.1. The Committee considers that the quantity of 353 000 tonnes proposed for the additional autonomous quota is excessive and should be limited to 100 000 tonnes. In fact, the sum total of the quotas, the traditional ACP quantities and the Community reference quantity is such that supply (4,26 million tonnes) will outstrip demand (3,9 million tonnes).

3.1.1. The oversupply of the EU market in recent years justifies capping the additional quota. This quota could be adjusted up or down annually in line with the real needs of the market.

3.2. In the Committee's view, the new mechanism for allocating import licences must ensure proper competition between all commercial operators so as not to upset the Union's balance of supply between all production sources, without exception. For this reason it is essential that these new arrangements provide an effective guarantee for the marketing of Community and ACP bananas and provide viable returns to growers. In particular, the competitiveness of European banana producers should be further improved. The Commission is urged to report in detail on the means deployed and the progress made, and also on any opposition.

3.3. The Committee considers that the reference period for the allocation of import rights should be the last year for which market data are available. This will ensure that the figures are more in line with the actual situation on the market. If the calculation of the reference quantities is to be simpler, more reliable and fairer, it is necessary to take into account only those quantities actually imported into the Member States as shown on import licenses which have been checked (or certified by the customs).

3.4. To smooth over the transition from the present import arrangements to the new arrangements introduced in the Commission proposal, the Committee considers that a number of transitional measures should be laid down so as to reduce to a minimum the disruption caused by the major changes to the present system. During this transitional period, operators would have a chance to make the changes to their industrial and commercial infrastructure required to adapt to the new import system.

3.5. The Committee considers it essential that the arrangements for allocating import licences in the event of exceptional circumstances be maintained.

3.5.1. The Committee thinks that such exceptional circumstances should cover the situation of those countries which have traditionally supplied the Community market but are going through a period of governmental anarchy which prevents them from keeping up with their historic export quota.

4. Conclusions

4.1. The Committee is aware of the need to bring the banana import arrangements established in Regulation

(EEC) No 404/93 into line with the decision of the WTO Dispute Settlement Body, but argues that this should not compromise the efficiency of the CMO in bananas in achieving its fundamental objectives, especially in maintaining the market access guarantee for Community and ACP bananas, ensuring a decent income for both EU and ACP producers, and providing consumers with access to a varied range of bananas of different origins at reasonable prices which are uniform throughout the Community. The new arrangements should also encourage the marketing of bananas produced under proper social and environmental conditions so that third country producers and workers can obtain a better return from the sale of their bananas without risk to their health and the ecological balance of the growing regions.

4.1.1. The Committee therefore hopes that due account will be taken of its arguments with regard to the present amendment of the CMO in bananas. Under no circumstances can the Committee accept that Community preference, a fundamental pillar of the CAP, be dismantled because of the loss of guaranteed market access for Community producers. The Committee also considers it essential to preserve preferential access to the Community market and traditional benefits guaranteed to ACP producers under the Lomé agreements, which are a cornerstone of the Community's external and development policies.

4.2. The Committee would like to be informed as soon as possible and consulted by the Commission on any draft regulations applying the new CMO in bananas.

Brussels, 27 May 1998.

*The President
of the Economic and Social Committee*

Tom JENKINS

APPENDIX

to the opinion of the Economic and Social Committee

The following amendments, having received at least one quarter of the votes cast, were rejected during the deliberations.

1. Point 2.3.2

Point 2.3.2 to read as follows:

'Consequently the section thinks that the Commission should step up the use of all appropriate means for bringing about structural improvements in the areas concerned. A careful analysis of the impact of structural aid to date should first be carried out.

In this context consideration could also be given to reassessing the flat-rate reference income for the calculation of the compensatory aid granted to Community producers.

Once the Treaty of Amsterdam has been ratified, Article 299 of this Treaty could provide the legal basis for this reassessment; under this Article suitable conditions may be attached to the application of EU policies in very remote regions.'

Reason

The necessary structural support in the relevant regions should in no way be limited to a possible increase in the compensatory aid. Such aid should only be granted as part of an overall package.

Result of the vote

For: 36, against: 48, abstentions: 13.

2. Point 2.6

Point 2.6 to read as follows:

'The Committee notes that, as a result of the aid, banana production in the EU has increased since the CMO was established. Nevertheless, current production (680 000-700 000 t) is still substantially below the maximum quantity eligible for aid established in 1993 (854 000 t).

If the EU production targets for quantity and quality were met, a decision could be taken on whether — contrary to the general trend in the CAP — the quantity eligible for aid should be increased, bearing in mind especially the prospect of future enlargement of the EU.'

Reason

Self-explanatory.

Result of the vote

For: 39, against: 52, abstentions: 15.

3. Points 3.1 and 3.1.1

Delete.

Reason

The 353 000 t additional quota corresponds to the non-EU imports of the three most recent Member States prior to accession. Since then their consumption has increased slightly (with changes in the breakdown of origins).

The figure of 4,26 million t given for supply was not actually reached because it was not possible, for a variety of reasons in the growing regions, to use up the EU and ACP quotas eligible for aid. Even the quotas for third country imports are below their target, mainly for administrative reasons (including license trading).

Result of the vote

For: 34, against: 49, abstentions: 24.

4. Point 3.3

First sentence:

For 'last year' read 'the last three years'.

Reason

Taking a single year for allocation of import licence allocation would operate most unfairly on countries which for climatic and other reasons had unduly low production in that year.

Because of the dependence of weather conditions an average of years usually forms the basis of allocation entitlement.

Result of the vote

For: 35, against: 38, abstentions: 26.

5. Point 3.3

Insert after the first sentence:

'However, the market-distorting effect of the old system, declared contrary to GATT, should be discounted.'

Reason

Self-explanatory.

Result of the vote

For: 32, against: 49, abstentions: 25.

6. Point 3.4

Delete.

Reason

Under WTO rules the new system must be fully operative by 1 January 1999.

Result of the vote

For: 35, against: 53, abstentions: 18.

Opinion of the Economic and Social Committee on the 'Communication from the Commission to the Council Fostering entrepreneurship in Europe: Priorities for the future'

(98/C 235/16)

On 5 May 1998 the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community on the above-mentioned communication.

The Committee instructed the Section for Industry, Commerce, Crafts and Services to prepare its work on the subject. The Committee decided to appoint Mr Lustenhouwer as rapporteur-general for its opinion.

At its 355th plenary session (meeting of 27 May 1998) the Economic and Social Committee adopted the following opinion by 78 votes to three with four abstentions.

1. Introduction

1.1. The Committee notes with approval the Communication from the Commission to the Council entitled *Fostering entrepreneurship in Europe: priorities for the future*. The Committee sees many of its own ideas reflected in the Commission's vision of entrepreneurship and in the actions proposed and already carried out to promote independent entrepreneurship. This is of course to be welcomed.

1.2. The Commission has done well to comply with the Council's call, made at the end of 1997, to submit ideas to the Cardiff European Summit as to how one of the components of the employment guidelines, the promotion of entrepreneurship in the European Union, could be put into practice.

1.3. The Commission sees entrepreneurship as a dynamic process which requires certain qualities. The Committee endorses this view but would add that entrepreneurship should in a sense also be seen as a separate factor of production, alongside labour and capital for example.

1.3.1. It is the combination of these various factors of production which adds value and which determines the success or failure of a business.

1.3.2. In this sense entrepreneurship is not something which is restricted to small businesses, but which is also identifiable in large firms and in forms of commercial cooperation between different firms. Here use is often made of some of the strengths of small, independent entrepreneurs, leading to the development of concepts such as 'intrapreneurship'.

1.4. The Committee also agrees with the Commission that the fostering of entrepreneurship is to a great extent

a matter of changing people's mentalities and creating an entrepreneurial, risk-taking culture.

1.5. However easy that may sound, the Committee is aware that changes of this kind often take a long time and require great adaptability. The changes to laws and regulations needed for this must go hand-in-hand with incentives in other areas, such as, for example, training and the provision of information on the advantages and disadvantages of being an entrepreneur.

1.6. Over the last few years there has been growing interest in entrepreneurship, particularly among younger people and the better educated. And yet in many cases the transition from employee to self-employed is not easy. The Committee points out that a 'grey area' has developed between employment and self-employment, which is causing problems with regard to the legal, tax and social security position of people in this grey area. A person may thus be regarded as self-employed by the tax authorities, whilst being regarded as an employee by the bodies responsible for implementing the rules of the social security scheme! The cause of this problem is that in most Member States the law is based on the nineteenth century distinction between employer and employee, which can however nowadays exist side-by-side. Thus a growing number of people, often working in the service sector, are both employee and self-employed. The Committee feels that the Member States should address this problem and adopt measures in these areas to make the situation clearer for those affected. Uncertainty will tend to deter people from taking initiatives which would be worthwhile and socially useful in terms of employment, but also in terms of developing new products and services.

1.7. As stated above, the Committee finds many of its own views reflected in the proposed actions. The

Committee has recently issued opinions on related fields, e.g. on electronic commerce⁽¹⁾ and SME access to EU R&D funds⁽²⁾. Opinions relating to other fields are being prepared, e.g. on the draft directive on late payments⁽³⁾, access for SMEs to the capital markets⁽⁴⁾ and the proposals for financial assistance for SMEs in the framework of the growth and employment initiative⁽⁵⁾. A brief mention will be made in this opinion of subjects on which explicit comment is indicated at this stage.

2. Priority actions for encouraging enterprise culture

2.1. The Committee endorses this part of the Commission's strategy. The promotion of high-quality education for aspiring entrepreneurs, e.g. by developing networks of educational institutions and dispelling prejudices about entrepreneurship, fits well here. The intended change to the law on bankruptcy, needed in a number of Member States, could also help put an end to the tendency to regard entrepreneurs who go bankrupt as 'losers'.

Of course a balance has to be struck here between the various interests involved, and certainly those of creditors, but at the same time a legal framework needs to be established which does not automatically exclude a second chance.

2.2. The recommendations aimed at the Member States should make it clear how necessary it is to highlight at an early stage of young people's education the opportunities for personal development offered by entrepreneurship and the social function performed by entrepreneurs.

3. Priority actions for promoting enterprise culture

3.1. In the course of their activities entrepreneurs are faced with any number of rules imposed on them by society for various reasons. Tax laws, safety regulations, environmental regulations, establishment requirements, land-use planning rules, permits etc. are unfortunately all too often a burden for small firms, and an unnecessary one at that. Studies have conclusively shown that administrative costs weigh most heavily on small firms. The Committee therefore notes with interest the pro-

posals of the BEST group (Business Environment Simplification Taskforce) submitted on 7 May. Although the Committee has not yet had the opportunity to study the BEST report and its specific proposals in detail, clearly the idea of setting up Better Regulation Units at the Commission and Council, as well as at a high political level in the Member States, is interesting from the point of view of the 'think small first' principle and merits further development.

3.2. One of the most important factors affecting the business environment is the tax system in the Member States. The Commission is therefore right to link the tax system with the question of the financing of small firms. Tax incentives need to be created for start-ups without however resulting in unbalanced competition vis à vis existing firms. The investment of risk capital in small firms by private individuals needs tax incentives, and it must also be ensured that the transfer of ownership of firms as going concerns can be effected without tax complications. This question of the transfer of ownership of companies set up by post-war generation of entrepreneurs will come into sharp focus over the next few years.

3.3. Laws and regulations on intellectual property (including patent law and the proposals for simplified patents or user law) are an important framework for the promotion of innovative developments in SMEs. When combined with improved access for small firms to knowledge of new technologies and the development of business clusters, there is potential here for improving the innovative capacity of small businesses. The combination of many, often complex factors makes it necessary, as the Commission points out, to set up in Member States where these do not already exist decentralized networks of easily accessible, low-cost information and advice centres by and for small firms.

3.4. In this connection, small firms should be given simpler access to Community R&D programmes, which will probably necessitate changes to the conditions of access to the programmes. Here too it should no doubt also be borne in mind that a small business is not a pocket-sized multinational! The Commission must ensure that SME organizations are actually involved in the partnerships set up at local or regional level in the framework of application of the Structural Funds, enabling them to contribute their own initiatives on an equal footing.

⁽¹⁾ OJ C 19, 21.1.1998, p. 72.

⁽²⁾ OJ C 355, 21.11.1997.

⁽³⁾ COM(98) 126 final.

⁽⁴⁾ COM(97) 187 final.

⁽⁵⁾ OJ C 157, 25.5.1998.

4. Promotion of entrepreneurship in the social economy

4.1. The Commission rightly highlights the great potential offered by the social economy for the creation of jobs. Business and/or organizations in this sector are not primarily concerned with making a profit. The extent to which 'businesses' of this kind are developed in the various Member States varies greatly, so that the development of a true Community policy for this sector is a laborious process. And it will probably not amount to much more than an exchange of information between Member States. This should not however mean the Member States and the Commission failing to appreciate the important contribution of the social economy to society. However the initiatives now announced must, in consultation with the organizations concerned, be further developed, which does not yet appear to be happening so that a final judgement on this part of the programme is not yet possible. The idea of special European diploma programmes would however seem at first sight to be at odds with the European Union's lack of powers over educational curricula. The exchange of experience gained in the Member States of specific education for persons working in social economy, by setting up a network of bodies, would seem a more fruitful and potentially valuable approach.

5. Conclusion

5.1. Many factors play an important part in the efforts to secure lasting economic growth in Europe. The promotion of entrepreneurship is only one of these, but certainly not the least important. But we must avoid unrealistic expectations at this stage which are likely only to result in disappointment. There are of course many fast growing small firms which contribute to the growth of employment. But at the same time there are also many microenterprises which offer people working for them a decent standard of living. These firms are not growing however and do not want to grow. And yet these, often locally operating firms make up the bulk of the small business sector and play an irreplaceable role in European economies. These are mostly small firms in

the more traditional sectors, such as retailing, crafts, hotels and tourism and small-scale industry.

5.2. The Committee points out that the Commission tends to lose sight of this important group. The Commission tends to emphasize innovative, fast-growing start-ups. There is a danger that this emphasis on corporate 'gazelles' will mean neglect of measures needed for existing firms. The Committee feels that the policy approach should be balanced, so that existing firms can operate on the market in accordance with the same conditions of competition as newcomers.

5.3. It is because entrepreneurship is a dynamic process of setting up, developing and finally transferring or winding up businesses that all these stages of the life cycle of a firm deserve policy consideration. With this proviso, the Committee wholeheartedly supports the vision and strategy for its implementation set out in the Commission's communication.

5.4. The Committee feels however that the annual evaluation of Community and national policy proposed by the Commission should also be referred for the Committee's opinion. Merely consulting the Council and the European Parliament would be to miss the opportunity to create broad public support for the continuation of this policy!

5.5. The Committee feels that this evaluation should be more than a traditional report on activities. On the model of the internal market scoreboard, it should be a sort of barometer or health check to establish whether progress has been made by the Union and the individual Member States in areas of importance to entrepreneurs, and if so in which. The BEST group referred to above states in its report that: 'It is, therefore, time that we moved from merely talking about the importance of having the right environment for small business to putting the needs of enterprise at the centre of policy making'.

5.6. The Committee considers that an annual check list could be a useful instrument for achieving this objective.

Brussels, 27 May 1998.

*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 Decision establishing a general framework for community activities in favour of consumers' ⁽¹⁾

(98/C 235/17)

On 12 February 1998 the Council decided to consult the Economic and Social Committee, under Article 129A 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, set up a study group and appointed Mr Koopman as rapporteur.

At its 355th plenary session (meeting of 28 May 1998), the Economic and Social Committee appointed Mr Koopman as rapporteur-general and adopted the following opinion by 94 votes in favour, 8 against and 3 abstentions.

1. Introduction

1.1. In its explanatory memorandum the Commission mentions the strengthening of consumer policy in the last decade, culminating in the Treaty of Amsterdam. So far, there has not been a basic act for the financing of Community actions undertaken in support of consumer policy.

1.2. The draft Parliament and Council Decision presents a 'basic act' ⁽²⁾ for activities which require financial support from the Union Budget for Consumer Policy and Consumer Health Protection. It establishes a framework for activities in the period 1999-2003, rather than a list of all the activities to be undertaken in that period, as it is not possible to anticipate precisely all the action that may be needed from the consumer perspective in that period.

1.3. The proposed Decision is based on Article 129 A of the EC Treaty. However, the Commission states that it may re-examine its proposal and base it on the new Articles 152 and 153 to be inserted by the Amsterdam Treaty, which broaden the ambit of consumer policy, if the proposal has not yet been adopted before the new Treaty comes into force.

1.4. The Commission groups the activities which may necessitate financial support into four categories:

- health and safety of consumers;
- protection of economic interests;
- educating and informing consumers about their rights;

— and the promotion and representation of consumers' interests.

An indicative list of these activities is given in an Annex.

1.5. The proposal covers three types of actions: those launched by the Commission itself, those in support of activities of the European consumer organizations and specific projects primarily presented by consumer organizations in the Member States.

1.6. The total budget allocation over these five years is estimated at ECU 114 million.

1.7. The financial support for activities of European and national consumer organizations which are related to the areas mentioned (see 1.4) may not in principle exceed 50 % of the expenditure involved in implementing the projects.

1.8. The conditions for granting financial support are listed in Articles 7 to 9 of the proposed decision. Criteria pertaining to cost-effectiveness, the multiplier effect and dissemination are dealt with in Article 7. The procedures related to the application for and approval of projects, which results in the conclusion of a contractual relationship, are set out in Article 8 and the requirements for monitoring, supervision and documentary evidence are mentioned in Article 9.

1.9. In the Financial Statement an indicative breakdown of the total budget allocation over the five-year period is given as well as a provisional distribution into the different areas for the three types of activity.

2. General remarks

2.1. The Committee is pleased that consumer policy has gradually been gaining importance in the course of the Community's development. Its origin may perhaps be traced back to 1961 when Commissioner Mansholt

⁽¹⁾ OJ C 108, 7.4.1998, p. 43.

⁽²⁾ Within the meaning of Article 22 of the Financial Regulation (in its consolidated version of 20 December 1996 — SG B.4 (96) p. 674).

for Agriculture for the first time called on consumer representatives to discuss matters of mutual concern. The first distinct unit dealing with consumer policy issues was created within DG IV in 1968. In 1973 a Service for Environmental and Consumer Policy was established which was transformed into DG XI in 1981. A separate Consumer Policy Service came into existence in 1989 — the predecessor of DG XXIV, which was established in 1995. The extension of its tasks to health issues in 1997 mark the latest organizational developments. These changes were the result of the increased relevance of and need for consumer policy within the European Community.

2.2. The Committee can agree with the reasoning of the Commission to establish a basic act for financing actions in favour of the consumer policy of the Community, although it would like to note that so far the absence of such an act has never prevented the Commission from funding such projects.

2.2.1. The establishment of a basic act is in conformity with Article 22 of the Financial Regulation which states that the implementation of budgetary appropriations entered for significant Community action needs to be preceded by the enactment of a basic act.

2.2.2. In addition, the establishment of a basic act in conjunction with the determination of a budget allocation over a five-year period may also create more clarity and certainty with respect to the size of the funds that DG XXIV has at its disposal for the execution of its policies. In the past, the process in which its annual budget was determined (cf. Article 203 of the Treaty) left much to be desired, as the budget was always subject to the power play between the Council (reducing it) and the European Parliament (proposing an increase).

2.2.3. In the same way, the establishment of a basic act for the allocation of funds may provide a welcome opportunity to firmly establish expedient, efficient and unambiguous procedures for the funding of projects and to give an adequate definition of the conditions to be fulfilled by the recipients in order to meet warranted accounting objectives in a transparent manner. Fortunately, for 1998 the procedures for funding have already been much improved in comparison to those of preceding years.

2.2.4. Furthermore, the proposal also paves the way for a proper definition of the criteria that consumer organizations have to meet in order to qualify for financial support. An important factor in this context is the representativeness of these organisations. The Commission may however apply further criteria.

2.3. Whilst agreeing with the need to establish a basic act as such, the Committee would like to note that this can be done in two distinct ways: i) through a framework featuring indicative activities by area along the lines of the present Commission proposal or ii) through a framework in which a more concrete medium term policy programme plays a pivotal role. The Committee disagrees with the reasoning of the Commission that such a multiannual programme cannot play that role, as, according to the Commission, 'it is not possible in the field of consumer protection to anticipate precisely and for a period of five years, all the problems which would necessitate Community intervention.'

2.3.1. Firstly, it is not necessary to know the future precisely in order to draw up a multiannual programme. The details of activities to be undertaken in the course of time may be included later as may be witnessed in so many Community (framework) programmes. Secondly, EU-consumer policy has always, since its inception in 1975, been conducted within the context of a medium term programme: the first and second (5-year) consumer protection programmes, the 'new impetus' programme, the first and second 3-year action plans and finally the present 'Priorities for Consumer Policy (1996-1998)'.

2.3.2. The Committee regrets that the new multiannual action programme has not yet been finalized, as it could and should have given further directions to the allocation of funds for the proposed actions and activities in the near future. In this manner, a discussion could have taken place on all the issues which are encompassed by the triangle: basic act, programme of activities and (total) budget allocation.

2.3.3. The submission of such a multiannual action programme would also have been more in line with Article 1 of the Declaration by the European Parliament, the Council and the Commission of 6 March 1995 on the incorporation of financial provisions into legislative acts⁽¹⁾, which refers to 'multiannual programmes' rather than to (indicative) 'policy frameworks'.

2.3.4. The Committee nevertheless endorses the framework as it seems to be sufficiently flexible to fully embrace the planned multiannual consumer action programme, provided that an explicit reference to this action programme is included in the proposed framework itself. In this manner the Commission would achieve the indispensable link between the required basic act for the implementation of budget appropriations in the field of consumer policy and its multiannual programme. This action programme should also commence on 1 January 1999 and its duration should, in principle, correspond with the time span of the framework. The Committee will not discuss the activities

⁽¹⁾ OJ C 102, 4.4.1996.

mentioned in the Annex to the proposal now, as it intends to give its comprehensive views on the planned action programme. This programme will provide a much better basis for discussion on the future course of EU consumer policy than the proposed framework.

2.4. The Committee would welcome a re-examination of the proposal on the basis of the relevant new Treaty provisions following from the Amsterdam Treaty, should this opportunity be offered. It urges the Commission to present its ideas on how these new responsibilities may influence actions in the area of consumer policy as quickly as possible in order to commence discussions on this issue simultaneously with this proposal. The Commission would then be able to present a modified proposal, or to propose an amendment to the Decision, immediately after the entry into force of the Treaty of Amsterdam. In any case, the new action programme in development ought to be based on these new provisions.

2.5. The Committee is aware of the Declaration mentioned above (see 2.3.3) according to which the budgetary authority and the Commission will not depart from the total financial allocation 'unless new, objective, long-term circumstances arise'. It notes, however, that given the horizontal nature and the continuous development of consumer policy as well as the unpredictability of future events, and this in relation to the limited budget available, the loss of flexibility that the adoption of a financial framework entails should not be taken lightly.

2.5.1. Therefore, the Committee wishes to stress the need for flexibility in allocation of funds in the case of unforeseen events in the areas of activity covered by the proposed Decision. In its annual reports to the European Parliament and the Council (article 12.1 of the proposed Decision), the Commission may indicate, if this happens to be the case, major deficiencies in consumer activities resulting from a lack of funds. Such information would give the EP and the Council the chance to allocate further funds to specific areas.

2.5.2. The Committee would moreover like to suggest leaving sufficient room for the introduction of a new basic act to earmark new financial provisions in order to take appropriate action in the case of events in areas not covered by this framework.

2.6. The Committee understands that the allocation of funds for the three types of action and the four categories of policy concerns is provisional. It hopes that the considerations upon which this distribution has

been based, or any new distribution, will be made visible in the new action programme.

2.7. The Committee notes with satisfaction that the framework is open to the participation of the associated countries of central and eastern Europe and Cyprus and understands that funds for this participation will be made available outside the financial scope of this framework. The Committee expressed its views on the significance of consumer policy for these countries in transition in an earlier opinion⁽¹⁾ and hopes, also in the light of the necessary steps to be taken in the process of enlargement, that sufficient support can be given to the development and implementation of mutually beneficial projects.

3. Specific remarks

Recitals in the preamble

3.1. In the eleventh recital mention is made of the integration of the consumer policy aspects into other Community policies. Two observations are in order. In the first place, especially in the light of the new Article 153(2), reference to other important policies should also be made, such as: public services, financial and monetary matters (Euro), agriculture and external trade (WTO). Secondly, reference to these issues does not necessarily imply that financial commitments for such actions should follow from the budget of DG XXIV. The essence of integration policy in the final analysis is that those responsible for these other policies are also responsible and accountable for the integration — in this case — of consumer interests. This responsibility also includes, in principle, the financial component of the action involved⁽²⁾. This notion should be reflected in the proposal.

Article 1: financial allocation

3.2. Comparing the annual budget allocations proposed for the 1999-2003 period with the annual allocations over recent years, the Committee unfortunately must conclude that for a large number of activities the figures represent a decrease. This is the result of the addition of new fields of action to the budget of DG XXIV, stemming mainly from the BSE-crisis. It notes that this decrease stands in contradiction to the growing importance of Community consumer policy as reflected, among other things, in the Amsterdam Treaty.

⁽¹⁾ See the ESC opinion on the Commission Communication 'Priorities for consumer policy (1996-1998)': OJ C 295, 7.10.1996, p. 14, point 2.9.

⁽²⁾ This principle has, for instance, been reflected in the allocation of EU-funds for New Car Assessment Programmes which establish safety ratings of vehicles. It should however be followed on a much larger scale.

The Committee therefore urges the Commission and the Budgetary Authority to increase the consumer budget for the 2000-2003 period beyond the very modest growth (determined by reference to the growth in Community GDP) proposed by the Commission⁽¹⁾. The Committee takes the view that the multiannual programme being drawn up by the Commission may provide additional arguments for such an increase.

3.3. In this context the Committee would like to stress the importance of financial support to consumer organizations as these organizations have to play an active role in shaping the Single Market. Their contribution will enhance the confidence of the Community's 370 million consumers in the functioning of the Single Market.

Article 2: Types of action

3.4. Following the remarks made in point 2.3.4 on the need to link up the action programme with the legal framework, the Committee proposes the following amendment to Article 2 (a):

'actions taken by the Commission to support and supplement the policy conducted by the Member States, and to develop, update and monitor it in the context of a multiannual programme under the conditions set out in (new) Article 5;'

3.4.1. In this new Article 5 the conditions for the drafting of a multiannual programme should then be spelled out in more detail, for example as regards the following aspects: the duration of the programme, a reference to its priorities, evaluation aspects and the existence of a financial paragraph.

3.5. An explicit financial allocation of the total budget over the three types of action is not given, but may be derived from the indicative breakdown in the Financial Statement in the Annex by those intimately involved with consumer policy. Acknowledging the provisional character of these figures, more transparency on this distribution would nevertheless be desirable.

Article 3: Integrating consumer interests into other policies

3.6. Notwithstanding the observations made in point 3.1 on the responsibility for integrating consumer interests into other policies, it is the responsibility of the Commissioner for consumer policy to secure consistency between the manner in which these consumer aspects are treated elsewhere and the way the activities are

pursued under this general framework. The ESC urges the Commission to present adequate mechanisms enabling DG XXIV to take better account of other relevant policy intentions at an early stage and to contribute to the consistency and the complementarity of Community policies. In this context it draws attention to a number of Council Resolutions on the need for increased integration of consumer policy considerations into other areas as well as to numerous opinions in which the Committee referred to this aspect⁽²⁾.

3.6.1. The Committee invites the Commission to evaluate relevant measures taken to date. In this context the integration efforts made by DG XI (e.g. the system of 'environmental correspondents' in other DGs) should serve as an example. Furthermore, attention should also be paid to applying the concept of consumer impact statements.

Article 4: Areas of action

3.7. These areas are in complete accordance with the objectives set out in new Article 153(1) and meet the full approval of the Committee. Although subjects such as the enforcement of consumer legislation or the legal position of the consumer are not mentioned explicitly, they may constitute important elements of the stated areas. The Annex gives an indicative list of activities by area. It is not clear to what extent this list is a determining factor in selecting projects from consumer organizations for financial support. The Committee asks the Commission to shed light on this issue. The Committee expects that the Commission, in drawing up the new action programme and defining its priorities, will take into account the new directions presented in its Communication 'Priorities for Consumer Policy (1996-1998)'⁽³⁾ and its state of progress.

Present Article 5: eligibility criteria for European consumer organizations

3.8. The Committee is pleased with the definition of European consumer organizations given in Article 5.1. This definition would ensure that only active and independent organizations with a strong representational base will be eligible for EU-funding.

Article 6: eligibility criteria for national organizations

3.9. The Committee disagrees with the broad definition of national organizations which may qualify for

⁽¹⁾ Obviously within the limits of the 1,27 % ceiling.

⁽²⁾ Notably in its opinion on the Single Market and Consumer Protection, see its paragraph 3 (OJ C 39, 12.2.1996, p. 120).

⁽³⁾ See the ESC opinion on the Commission Communication 'Priorities for consumer policy (1996-1998)': OJ C 295, 7.10.1996, point 1.9.

financial support. The Commission is of the opinion that not only consumer organizations, but also other organizations may submit worthwhile projects in the interest of the consumer. Although the Committee does not deny that these other organizations may propose interesting projects, it firmly believes that it is better to confine this article to the (conditional) support of consumer organizations: granting financial support to consumer organizations in one area also strengthens these organizations in a broader sense and is thus also conducive to the pursuance of other consumer policy objectives. It should be noted that the view that strengthening consumer organizations is valuable in itself is in line with the Commission's reasoning in point 9.2 of the Financial Statement of the proposal.

3.9.1. The Commission may participate in the cost of projects proposed by other organizations, such as research institutes, universities, or centres of excellence if these projects are to contribute to the pursuance of its own goals. Such support should however be based on a separate article in the proposed framework and accounted for in a separate budget line.

3.10. The Committee is of the opinion that national consumer organizations should satisfy a number of conditions in order to qualify for support from the Commission⁽¹⁾.

3.10.1. As stated before, these organizations should meet certain criteria of representativeness. These criteria differ in Member States and the principle of subsidiarity dictates that the definition of such criteria must be left to them⁽²⁾. In the absence of national criteria, the Commission is free to apply its own qualifications for the test of representativeness. Important factors in this context are:

- The statutory objective of the organization should be the representation and pursuance of the consumer interest.

⁽¹⁾ Sectoral consumer organizations (for instance for public transport and public utilities) could also be financially supported by those DGs which are responsible for these affairs, depending on the contribution those organizations make to the pursuance of the policy objectives of the DGs in question.

⁽²⁾ See also Article 3 of the common position of the Council on the proposed Directive on injunctions for the protection of consumer interests (OJ C 389, 22.12.1997). This Article states that the 'qualified entities' must be 'constituted according to the law' of the Member States. It should be recognised however that in some Member States public bodies and not consumer organisations have been designated as qualified entities. Moreover, not every Member State has defined criteria of representativeness.

- The organisation's policy independence from government should be statutory and it should be financially independent from business. It should have full legal competence and a certain internal organization for a number of years.
- Its organization and financial basis should express its viability.
- Its membership, which can be composed of individuals or organizations, should be significant in comparison with other such organizations.

3.10.2. A further factor may be the role the organization plays in representing consumers in policy making. In addition, these organizations should constitute a relevant factor beyond the mere local or regional level.

3.11. The Committee expresses the hope however that these criteria will be available soon in all the Member States. It is moreover the view of the Committee that consumer organizations from Member States in which consumer representation is less developed should qualify more easily than those from Member States in which the consumer movement is more advanced, analogous to the principles guiding EU cohesion policy.

Articles 5 and 6: the volume of financial support

3.12. Paragraph 5.3 and 6.3 state that financial support shall 'not in principle, exceed 50 % of the costs'. According to the additional information the Commission provided for applicants for Community support for consumer projects in 1998, these applicants have to argue why more support is justified in the absence of further criteria. The Committee invites the Commission to explain, in as far as possible, under which circumstances this percentage may be exceeded, as it may help to reduce the number of requests which may have to be turned down. Perhaps the funding of ANEC⁽³⁾, which so adequately represents consumer interests in standardization and which receives a much higher proportion of its costs, may help the Commission to define these conditions more explicitly. The Commission should, on the basis of past experiences, give a further indication of the considerations which may permit a funding in excess of 50 % of the costs of a project in its subsequent calls for tender.

The term 'operating expenses' also needs to be elucidated. It is the view of the Committee that infrastructure costs do not constitute part of these operating expenses and should therefore be reimbursable.

⁽³⁾ The European association for the co-ordination of consumer representation in standardisation.

Article 7: project selection criteria

3.13. Although the Committee can largely agree with the proposed criteria, it takes the view that they need to be further elaborated in order to provide more concrete guidance (further clarification could for instance be given on the meaning of the word 'lasting'). The Committee understands that this will be done in the annual calls for tenders published by the Commission (see Article 8 point 1). In view of the call for tender for the funding of projects in 1998, the Committee would like to observe that, although clarity has improved much in comparison with the past, further efforts will remain necessary. The Committee is sceptical about the introduction of criteria which require applicants to predict outcomes of projects, as these outcomes cannot always be safely predicted at the outset. Finally, the Committee points out that dissemination of results entails costs which should be included in the total cost of the projects submitted for financial support.

Article 8 and 9: procedures

3.14. The Committee urges the Commission to set timetables also for its own activities such as the assessment and selection of projects, the notification of applicants, the conclusion of contracts and the actual payment of projects. In the past there have been long delays, especially for payments. Timetables will make for transparency and discipline for grantor and grantee alike and thus allow for orderly planning. Finally, a provision should be made for the funding of projects covering more than one year, in order to achieve more

continuity and effective use of funds. The Commission may consult its Consumer Committee on the contents of the note it refers to in Article 8.1.

3.15. The Committee is pleased with the efforts of the Commission to reduce bureaucratic procedures regarding auditing requirements and thus save the valuable time of (especially small) organizations. The provisions of Article 9.1 are an important step in the right direction. It expresses the hope that further improvements will be made in order to achieve a better balance between the benefits and the administrative burden of smaller projects.

Article 12: reporting

3.16. The Committee suggests that the annual report that the Commission will send to the European Parliament and Council should be confined to eventual problems and mere description of facts. Bureaucratic paper work has to be avoided. It understands that the evaluations of some projects only will be included in these reports as part of the Commission's ongoing evaluation process. If this is the case, the Commission would be well advised to express these intentions more precisely. The Committee is pleased that an evaluation report on the functioning of the 'general framework' will be submitted by end June 2002 at the latest. These findings should constitute the basis for drafting the proposal for the subsequent 'framework'. Furthermore, the Committee is of the opinion that, also in line with the remarks made with respect to the insertion of a new Article 5, an evaluation of the multiannual programme should be part of the aforementioned report.

Brussels, 28 May 1998.

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 136/66 on the establishment of a common organization of the market in oils and fats' ⁽¹⁾

(98/C 235/18)

On 6 April 1998, 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 this subject, adopted its opinion on 12 May 1998. The rapporteur was Mr Quevedo Rojo.

At its 355th plenary session held on 27 and 28 May 1998 (meeting of 28 May), the Economic and Social Committee adopted the following opinion by 67 votes to eleven, with eight abstentions.

1. Introduction

1.0. The proposed amendments to the CMO regulations are part of the CAP reform discussed in Agenda 2000. Under these market organizations, the main EAGGF market-related expenditure is based on aid to the three large groups of continental products (COP crops, milk and beef). These three groups represent two-thirds of total EAGGF expenditure, having risen from 63,7 % in 1986 to 67,2 % in 1996. Traditionally these products have been the principal source of surpluses throughout the CAP's existence. In contrast, the three main Mediterranean products (wine, olive oil and tobacco) represent barely 10 % of total EAGGF expenditure and in the reference period their share has fallen from 13 % (1986) to 9,8 % (1996).

1.0.1. The CMOs in Mediterranean products should allow for the fact that in percentage terms these products have a greater impact on job-creation than the continental products. It should be stressed that urgency procedures have been followed for the amendment of the Mediterranean product CMOs which are discriminatory compared with the procedures applied for the continental products, both in their failure to consult the usual social and economic representatives and in the pre-emptory decision-taking.

1.1. *The Commission proposals*

1.1.1. A two-phase reform, with the first phase (the transition period) lasting throughout the 1998/1999 and 2000/2001 marketing years, and the second phase starting on 1 November 2001.

1.1.1.1. The first phase:

— Increase in the MGQ from 1 350 000 t to 1 562 000 t.

— Break-down of the MGQ between the Member States as follows:

Spain	625 210 t	(40,0160 %)
France	3 065 t	(0,1962 %)
Greece	389 038 t	(24,9000 %)
Italy	501 175 t	(32,0770 %)
Portugal	43 915 t	(2,8107 %)

— Abolition of consumption aid.

— Abolition of aid to small producers.

— Abolition of the intervention mechanism and replacement with a private storage system.

— 1 May 1998 established as the deadline for new plantings eligible for aid, although exceptions would have to be made for trees planted after this date under modernization programmes approved by the Commission.

1.1.1.2. The second phase:

— Establishment of a reliable database of surface areas, number of trees and yields in order to plan the second phase.

— Declaration of the need for quality improvement and promotion measures, but which are neither specified nor provided for in the budget.

— Still no plans to ban blends.

— Repeal of the provisions on aid and the market regulation mechanisms laid down in Council Regulation (EEC) No 136/66 on the establishment of the market in oils and fats with effect from 1 November 2001.

2. General comments

2.1. *A two-phase reform*

2.1.1. The first phase constitutes a fully-fledged reform, though these policies do not necessarily have to be reflected in the second phase. The basic reasoning

⁽¹⁾ OJ C 136, 1.5.1998, p. 20.

behind such an approach is the lack of reliable information to draft a genuine reform before 1 November 2001. The Commission has thus opted for an immediate reform, irrespective of the consequences of such a change and in clear contradiction with Conclusion 1 of the ESC Opinion (CES 600/97) ⁽¹⁾ and the Parliament resolution.

2.1.2. The justification for such urgency seems to be the fear of structural surpluses. However, no such surpluses were produced even in the 1996/1997 marketing year when world production was higher than ever before.

2.1.3. The introduction of a stabilizer limiting the number of trees eligible for aid to those planted before 1 May 1998 transfers the risk of surpluses to the productive capacity of existing trees and any which replace them in the future.

2.1.4. A further ground for urgent reform could be an attempt to guarantee the quotas of some producing countries as opposed to others, given the unequal investment and innovation effort in the olive oil sectors in the Member States as a result of market dynamics and the CMO.

2.1.5. To summarize, there is no justification for implementing the first phase of the reform — inappropriately referred to as a transition period — until the reliable data base required for the olive cultivation register is established, as highlighted by the Commission itself and by the Court of Auditors.

2.1.6. Information from the olive cultivation register may indicate that the second phase of the reform should establish different criteria and mechanisms. Such a situation would be both harmful and disruptive for the sector.

2.2. *An inadequate MGQ and an inappropriate and discriminatory distribution between NGQs*

2.2.1. The maximum guaranteed quantity (MGQ) is 1 562 400 t, which is lower than Community consumption in the 1996/1997 marketing year (1 657 000 t according to the European Parliament report) and consumption estimates for the coming years following the drop in market prices.

2.2.2. The reference period used to determine the MGQ and the national guaranteed quantities (NGQs) is both incorrect and discriminatory.

2.2.3. It is incorrect insofar as the production cycle for olives is essentially biennial. The reference period should, therefore, cover several years (six at least). This would ensure that after eliminating the best and worst harvest years, information on at least four years would

be included, which would be equivalent to the average of two standard biennial cycles.

2.2.4. The reference period is discriminatory insofar as these figures should be revised annually on the basis of the marketing years immediately before, and should not remain fixed for the duration of the so-called 'transition period' on the basis of the figures for 1992/1993-1997/1998. The efforts of countries that have invested most in renewing their plantations and in technological innovation within the common framework of the current CMO would be penalized for focusing on quality, renewal, and innovation.

2.3. *A premature and incomplete proposal*

2.3.1. The above-mentioned failure to establish a reliable database means that the 'transition phase' has been drawn up hurriedly, as its many shortcomings demonstrate.

2.3.2. The removal of small producers from the aid regime should be combined with specific measures to ensure the viability of small and medium-sized holdings, since in some Member States these account for 55 % of agricultural employment and play a crucial role in keeping communities on the land and protecting the environment.

2.3.3. Neither is there any consideration of varying yield among olive groves. While there are structurally very low-yield olive groves (those with a yield of less than 1 000 kg/ha), there are some very high-yield olive groves which produce a profit, even at market prices. This variation is a permanent, not an isolated, factor. Consequently, the use of the surface areas registered for each holding and of the quantity harvested and marketed by each holding could form the basis of a system whereby production aid is continually adapted in relation to production. Such a system would mean that marginal olive groves could be kept in production, and would provide a reasonable, but not excessive, incentive for renewal and innovation.

2.4. *Unjustified abolition of aid*

2.4.1. Abolition of the aid system could lead to speculative movements. Private storage does not guarantee that the markets will be supplied or that farm incomes will be maintained. Nor is abolition justified by the argument that production will be stimulated when aid is restricted to groves existing at 1 May last.

2.4.2. It should not be forgotten that aid makes it possible to regulate prices and markets when necessary, which has been very useful and has hardly cost anything in the past. As is well-known, in this sector the variation

⁽¹⁾ OJ C 287, 22.9.1997.

in the harvest from one year to the next can amount to one third of the average annual production. This is why buffer stocks are essential.

2.5. *Inadequate fraud control*

2.5.1. In order to reduce fraud the proposal abolishes the aid to small producers and consumption, at the same time transferring control measures to the Member States once the NGQs are established. These measures are inadequate and represent a surrender of its responsibilities by the Commission.

2.5.2. A possible means of combating fraud could be to carry out an effective and real check on the oil produced in olive-oil mills and traded commercially. The Committee, therefore, suggests that data on the quantity of fatty olive residue at point of exit from the mill be cross-checked with the quantity at point of entry into the olive-residue extractors. This physical check on the olive oil actually produced and marketed should be accompanied by simplification of aid management; this is feasible and would additionally make it possible to rationalize production and the market. As far as fraud control is concerned, such a proposal would complement the abolition of the aid to small producers by replacing the double check which would have been possible through the — now also abolished — consumption aid.

2.6. *Promoting consumption and improving the quality of olive oil*

2.6.1. Olive oil represents 3% of production and 3,5% of consumption of vegetable oils. To date there have been no structural surpluses. Consumption is minimal in numerous countries, including many in the EU.

2.6.2. There has been a spectacular increase in consumption in countries with a high standard of living as a result of the promotion campaigns carried out by the IOOC.

2.6.3. The ESC's previous opinion recommended that the EU finance these campaigns and warned against blends which should, at the very least, be indicated on the labelling to avoid confusion.

2.6.4. The promotion of the consumption of high-quality olive oil through advertising campaigns — possibly financed by the abolished consumption aid — would create a market outlet for the average annual production anticipated for 2005 in the IOOC report (1 962 000 t), especially in the Nordic countries and in others such as the United States, Japan, Canada and Australia.

2.7. *Protecting the environment*

2.7.1. In many EU regions, maintaining the cultivation of olive groves is the only alternative at present to abandonment and the associated environmental

deterioration, erosion in particular, bearing in mind that olive groves in the EU serve as productive woodland separating fertile land from desert land.

2.7.2. Olive groves on fragile soil, which make up a high percentage of the area under cultivation, require specific measures tailored to their marginality and fragility. Such measures are not planned.

2.7.3. Differentiating the production aid would enable such marginal olive groves to receive a unitary aid (per kg of oil produced and marketed) much higher than that received by an irrigated grove, whose production costs can only be offset by market prices.

3. **Table olives**

3.1. This sector is mentioned only in the explanatory memorandum. It is essential to plan support measures right now for this sector whose viability is in grave danger. It is also an important source of employment and an opportunity for diversification of olive groves.

4. **Conclusions**

4.1. *European leadership and Agenda 2000*

4.1.1. The EU leads the way in olive oil production and consumption and this situation must be maintained. For this reason it is crucial that the proposed reforms can count on the support of all producing countries.

4.1.2. Such a reform proposal is possible if the guidelines set out in the European Parliament report, which received the unanimous backing of the EU olive oil sector, are followed. The unity of the sector is the key to maintaining leadership.

4.1.3. The guidelines contained in the Parliament's report can be financially viable. Two supplementary measures would seem relevant: a) consideration of an increase in the financial statement for the CMO in olive oil in the light of the increase for other sectors proposed in Agenda 2000; b) a differentiation of production aid in line with productivity which guarantees the income of all olive oil producers and safeguards employment.

4.1.4. The EU should make a serious effort to maintain leadership in production, marketing and innovation in this sector. For this the following are required: a) a campaign to promote high-quality olive oil financed by the EU and the recognized producers' organizations to boost consumption to the levels required to absorb the expected rise in production; b) a defence of quality

by banning blends and their legal prosecution so as to maintain the product's image; c) an ongoing and specific programme of R& D to safeguard technological leadership.

4.1.5. Since its first note the Commission has perceived olive oil as a potential danger and not as a product whose qualities are universally recognized and with enormous potential if properly promoted. To reiterate the features of olive groves that make their future an inescapable challenge for the EU: main source of employment in European Objective 1 regions, sustainable farming system if support is differentiated with CMO funds for olive groves with very different productive capacity, dynamism of the production and processing sector which in recent years have incorporated major technical innovations, way of life and cultural factor rooted in broad regions of southern Europe, etc.

4.1.6. The Commission's proposal, despite incorporating some positive aspects compared with the 1997 note, still fails to understand the sector. Where the Commission sees a problem, the sector sees opportunities for expansion with proper product promotion and more accessible prices as a result of the forecast increase in supply. The all-round advantages (employment, social, economic, environmental, technological leadership, etc.) offered by this sector at the moment should not be lost because of a reductionist approach and unjustifiable urgency, given the lack of a reliable data base and the fact that this is a product which is not in structural surplus.

Brussels, 28 May 1998.

5. Specific comments

5.1. Article 4

The Committee considers that the amendment contained in this article is inappropriate given that the intervention mechanism needs to be maintained in its present form in order to safeguard the survival of the olive grove.

5.2. Article 5

The Committee accepts the NGQs determined in accordance with this Article provided that they are amended as soon as the Commission has the actual data on production, area and number of trees from the Member States. These changes should be implemented immediately without waiting for the end of the transition period.

5.2.1. The Committee considers that the MGQ should be equal to total Community consumption plus exports, minus imports, and including a quantity to act as a buffer stock between marketing years. This should be in the region of the quantity also recommended by the European Parliament.

5.3. Article 11

The Committee considers it important that the promotional campaigns provided for in this article should highlight the prominent role of olive oil in preventing cardiovascular diseases. The section would stress the savings in EU public health spending which the consumption of olive oil can achieve.

The President
of the Economic and Social Committee
Tom JENKINS

Opinion of the Economic and Social Committee on the 'Communication from the Commission on an action plan for free movement of workers'

(98/C 235/19)

On 2 December 1997 the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for Social, Family, Educational and Cultural Affairs, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 15 May 1998. The rapporteur was Mr Vinay.

At its 355th plenary session (meeting of 28 May 1998) the Economic and Social Committee adopted the following opinion by 85 votes to one, with one abstention.

1. Introduction

1.1. Free movement of workers is a cornerstone of the single market, and the full, effective implementation of this right will become increasingly important when economic and monetary union becomes a reality.

1.2. The Commission communication presents an action plan which builds on the final report of the High Level Panel on free movement of persons, set up in 1996 and chaired by Simone Veil. The Panel concluded its work and presented its comments and recommendations on 18 March 1997.

1.3. Apart from some subsequent revision, the basic legal framework for free movement has been in place since 1968, as the Council did not incorporate the amendments proposed by the Commission in 1989 and 1990.

1.4. The High Level Panel now feels that it contains certain flaws and lacunae, and that the rules should be thoroughly revised and reinforced to take account of the extensive case law developed by the European Court of Justice in this area over recent decades.

1.5. The action plan recommends a five-prong strategy to:

- improve and adapt the rules;
- make the labour market more transparent;
- strengthen responsibility and cooperation;
- improve knowledge and visibility of the right to free movement;
- develop innovative projects.

1.6. Amongst the legal rules which particularly need improving in order to ensure free movement of workers

are those on the right of residence, family reunion, equal treatment in general, and, more specifically, those concerning social security and taxation.

1.7. If the labour market is to respond efficiently to the needs of the single market, information must be readily available to the public and firms, and cooperation must be stepped up between the Member States' Public Employment Services (PES) and the Eures (European Employment Services) network.

1.7.1. Special attention should be paid to cross-border areas, where labour mobility is more common, and problems pertaining to vacancies, social security and tax law are more keenly felt.

1.8. Ad hoc machinery should be created to boost and strengthen cooperation between the Member States, in order to ensure the rules are implemented properly and to facilitate the solution of problems and conflicts surrounding the free movement of workers.

1.9. In order to enhance knowledge and awareness of the right to free movement, the Commission proposes specific actions, including seminars and a regular newsletter for citizens, legal practitioners and national authorities.

1.10. Finally, the Commission aims to encourage the presentation of innovative projects to promote free movement of workers, to be funded under Article 6 of the ESF Regulation.

2. General comments

2.1. The Committee endorses the action plan and calls on the Commission rapidly to introduce ad hoc machinery to comply with the comments and conclusions of the High Level Panel.

2.2. Against the background of an increasingly globalized economy, an ever-expanding European Union with no internal borders, and the need to find work or

improve career prospects in another country, increasing numbers of people are feeling the need to spend sometimes considerable periods of time working or studying abroad.

2.3. From the social point of view, there can be no ignoring the implications of all this, both as far as rights, taxation, job opportunities, and social security are concerned, and not forgetting the fate of the migrant worker's family, which cannot be subjected to constraints on its membership or family ties.

2.4. Whilst these pressing problems cannot be avoided, the delay in updating the legislative framework in order to encourage workers' mobility and take account of their rights and welfare, is evidence of the complexity of the issue. It is therefore vital that all parties show themselves willing to work out concrete solutions which are acceptable to all.

2.5. Mobility tends to involve the professional classes, or specific types of workers, e.g. those employed in the building, hotel and catering trades. Nowadays, however, there are new reasons for working in another country, whether it be to acquire work experience, to do volunteer work, or just to look for a job.

2.6. Furthermore, intra-EU mobility is increasingly intense in cross-border areas, which thus find themselves having to cope first hand with complex situations and important matters such as welfare and taxation.

2.7. Moreover, the EU's millions of third country workers should be borne in mind: the problem of their rights and welfare must also be addressed.

2.8. Given the above, it is significant that the High Level Panel discussed the extent to which the basic principle of freedom of movement of persons is implemented. Consequently, the scope and objectives of the Commission's action plan for free movement of 'workers' might appear too restrictive. The broad thrust of the action plan nevertheless is towards a broader recognition of the term 'worker' and a wider application of the basic principle of free movement, as enshrined in the Treaty.

2.8.1. The Committee appreciates the Commission's pragmatic attempts to build on and open up existing EU instruments dealing with the free movement of workers. However, it considers that a parallel effort should be made to bolster this initiative with a deeper commitment to achieving freedom of movement throughout the EU

for all European citizens — paying particular attention to the problems facing people with disabilities — and also for third country nationals legally resident in a Member State⁽¹⁾. A bridge must be constructed between workers' and citizens' rights, their Community acquis, and between social and civil rights.

2.9. Essentially, the total removal of obstacles to the free movement and residence of Europeans — and not just of workers — is a political, social and economic priority. The Committee therefore calls on the Commission to waste no time in adopting the decisions needed to achieve this objective.

2.9.1. Moreover, in matters relating to the coordination of social security schemes, the Committee calls for Council deliberations to apply the qualified majority voting procedure, as is the case with other single market matters.

2.9.2. The Committee hopes, then, that the Commission initiative will be accompanied by the removal of the surviving differences of opinion expressed by the Member States.

2.10. However, the Committee endorses the Commission's attempt to broaden the scope of Article 48 of the Treaty of Rome on the free movement of workers. The Committee particularly supports the Commission's attempts to improve and extend the right of residence for workers looking for employment in another Member State and to reinforce the right to family reunion of those who have settled in another EU country. Such improvements must also be accompanied by proper civic rights and responsibilities enabling beneficiaries to play a full part in the society and community where they live.

2.10.1. At the same time, the Committee is conscious that the legal framework necessary for such free movement, whilst vital, is only a first step in breaking down the barriers to mobility. Although some progress has been made over the years, there is still a considerable amount of protectionism which undermines freedom of movement throughout the EU. The High Level Panel has pointed to the persistence of national protectionist practices which prevent other EU citizens from having access to jobs in the public sector, despite the rights enshrined in the Treaty and EU case law. These practices should be abolished once and for all.

2.10.2. Administrative formalities in terms of residence registration, social insurance and tax are often a

⁽¹⁾ Opinion on the Proposal for a Council Directive on the right of third-country nationals to travel in the Community: OJ C 153, 28.5.1996.

disincentive to free movement. The time frame for complaints to be processed and solutions to be found to such obstacles to free movement is about four years, thus making it impossible to provide a swift response to the problem. Consequently, a fast track procedure could be useful here.

2.10.3. There are still delays and shortcomings in the implementation of mutual recognition of qualifications, training and professional experience, and portable occupational pension rights are far from the norm. The potential of a multicultural, multilingual labour force which can offer an important competitive advantage in the internal and global market, is not generally realized. However, it must be said that the language skills challenge is a substantial obstacle to freedom of movement in Europe.

2.11. In the absence of a better regulated, better structured and more operational basis for free movement in the EU, there is a risk of destabilizing competition within the internal market. Cases of 'social dumping' have arisen, involving transfer of employees, not covered by the posting of workers directive, from one Member State to another through subcontracting. Such practices risk provoking yet more national protectionist measures which threaten individual free movement.

2.12. With reference to future enlargement, the Committee would point out that the relevant agreements and Treaties must provide a regulatory framework for possible flows of labour in the pre-accession and transition phases.

2.13. The Committee endorses the High Level Panel's proposal to appoint a single Commissioner to coordinate all free movement issues.

2.14. Finally, it should be emphasized that the removal of the obstacles to free movement, which can be achieved by fine-tuning and adapting Community instruments and through appropriate cooperation between the Member States, would not only help promote a more united Europe; it would also be a key factor in strengthening the foundations of a 'social Europe'.

3. Specific comments

a) *Improve and adapt the rules*

3.1. First of all, there is a need to eliminate the flaws in the legal mechanisms which place EU citizens who wish to seek work in a country other than that of their

habitual residence in a situation of administrative uncertainty. The practice of short-term renewal for people who have spent several periods as a legal resident in a Member State should be abolished where the periods total more than one year. This is needed in order to provide a more transparent, consistent interpretation of the right to freedom of movement, and to help combat undeclared work.

3.1.1. The Committee therefore endorses the Commission's proposal to amend Directive No 360/68/EC in line with the case law developed by the European Court of Justice over recent years.

3.1.2. More generally, the Committee would emphasize the importance of avoiding a situation in which Community rules are continually out of step with rulings by the Court of Justice. The case law developed by the ECJ must act as a further incentive to conclude rapidly any necessary consolidation and amendment of the rules. Endorsement of the Commission document thus takes on a political significance which goes beyond the — albeit considerable — importance of the communication's individual details.

3.2. As regards the problem of family reunion, which obviously entails the question of equal treatment and social integration of the family unit, the Commission is basically proposing to extend the right to family reunion, not just on the grounds of emotional ties, but also where there is an obligation — other than for economic reasons — to support family members. Clearly, the Committee welcomes this move.

3.2.1. Many of the above problems are a consequence of Regulation (EEC) No 1612/68; it is vital that this should be updated in order to provide a more comprehensive implementation of the right to free movement. In anticipation of the Commission's new approach to the rules, the Committee attaches great importance to any new provisions guaranteeing completely equal treatment and full integration in the host Member State for migrant workers and their families.

3.2.2. The Committee believes in particular that Regulation (EEC) No 1612/68 should be amended in line with consistent developments in ECJ case law regarding equal treatment in the social, economic, tax and cultural spheres for all migrant workers and their families, in full application of citizenship rights.

3.2.3. The Committee also recognizes the particular social significance of the High Level Panel's proposal to

abolish visas for third country nationals who are related to an EU worker, and would point out that it has expressed this view on a previous occasion.

3.3. For frontier workers, the following problems are particularly important:

— social security, owing to the different criteria applied to frontier workers and their families in respect of invalidity, unemployment and healthcare benefits, etc.;

— taxation, since the tax regimes of the country of residence and the country of employment overlap.

3.3.1. The Commission document provides no indication of any instruments which might solve frontier workers' social security problems; it merely states that 'specific provisions ... should be adopted', and that a proposal to reform and simplify Regulation (EEC) No 1408/71 will be presented to the Council before the end of 1998. The Committee awaits details of the Commission proposal.

3.3.2. In the absence of a specific Community regime, taxation is regulated by bilateral agreements between individual Member States; the only guidelines are to be found in Article 220 of the Treaty, on the abolition of double taxation. The Committee calls on the Commission to carry out a thorough assessment of how these taxation agreements work in practice, with a view to drafting a model agreement, to be submitted to the Member States.

3.4. There are many reasons why Regulation (EEC) No 1408/71 needs amending; more generally, there is a need to simplify and improve coordination of EU social security systems, and bring them in line with social, economic, demographic and cultural changes.

3.4.1. The Committee takes this opportunity to call for this simplification procedure to respect in full the rights acquired by the individual worker, and the specific features of each socio-economic, national and professional context, thus enabling workers to enjoy full seniority rights, and have their vocational qualifications recognized throughout their careers. Finally, simplification must make freedom of movement easier, and aim to provide equal treatment for all citizens.

3.4.2. The modernization process must take into account the large number of coordinated national systems, and bring the various provisions of the Regulation in line with ECJ case law; it must overcome

existing difficulties arising from legislative discrepancies, reword certain provisions, e.g. on unemployment, and incorporate new Community measures relating to issues such as the scope of directives on residence rights, and to areas excluded thus far, such as early retirement and special schemes for civil servants.

3.4.3. In order to bridge the remaining gaps, agreements must be concluded as soon as possible between the EU and third countries which are particularly affected by worker mobility—starting with Switzerland, and extending to other countries which are concerned by the problem to a lesser extent.

3.4.4. Moreover, the Committee would reiterate the view expressed in its opinion on the Commission Communication on modernizing and improving social protection in the European Union⁽¹⁾, that improved, more efficient social protection can help promote and strengthen the economy.

3.5. The Committee also endorses the Commission proposal amending Regulation (EEC) No 1408/71 to strengthen and improve the legal status of third country nationals who are legally resident in the Community, which was formally presented last November, in conjunction with the action plan⁽²⁾.

3.5.1. The Committee has already expressed a favourable view of this proposal⁽³⁾, stressing that the regulation will apply the principles of non-discrimination, and provide an instrument to combat illegal and undeclared work.

3.6. The Commission also refers to the proposal for a Directive on supplementary pensions. Although the Committee endorsed the proposal⁽⁴⁾, it considered it as just the first step towards achieving total freedom of movement as regards supplementary pension rights.

3.6.1. It should be stressed once again that the proposal concerns mainly workers on temporary detachment. It does not solve important stumbling blocks to the wholesale transferability of supplementary pensions,

(1) OJ C 73, 9.3.1998.

(2) OJ C 6, 10.1.1998.

(3) Opinion on the proposal for a Council Regulation (EC) amending Regulation (EEC) No 1408/71 as regards its extension to nationals of third countries, OJ C 157, 25.5.1998.

(4) Opinion on the proposal for a Council Directive on safeguarding the supplementary pension rights of employed and self-employed persons moving within the European Union, OJ C 157, 25.5.1998.

such as minimum contribution periods, difficulties in transferring acquired rights, taxation, etc.

3.6.2. The Committee is aware of the wide variety of national regulations in this area, but regards supplementary pensions as a *fait accompli* throughout the Member States, particularly given the cuts made to state pension systems.

3.7. Freer and more frequent movement of workers could also be achieved through improved education and training. The Commission's commitment in this area has already led to a green paper ⁽¹⁾, which identifies the obstacles to transnational mobility in terms of language, lack of information, and corporate reluctance to employ young trainees. The Committee has already adopted an opinion on the green paper ⁽²⁾.

3.7.1. Improving the language skills of all citizens should be a priority, and the Committee would take this opportunity to stress the need to boost all Community programmes for the promotion of multi-lingualism and cultural exchanges, particularly the Socrates and Leonardo programmes.

3.7.2. The Committee is in favour of the arrangements to promote mobility for apprentices in Europe, and has already given its views on the promotion of European pathways for work-linked training.

3.7.3. The Committee therefore calls on the Commission and the Member States to strive towards full mobility not just for students, but also for apprentices and trainees on courses with a transnational dimension, on an equal footing with people who already enjoy freedom of movement under the terms of Article 48 of the Treaty.

3.7.4. Finally, these comments cannot ignore the urgent need for measures to overcome the remaining obstacles and shortcomings as regards the mutual recognition of diplomas, technical and vocational qualifications, and professional experience, or the need for constant Community-level monitoring of developments in each Member State; the social partners could also help in this.

b) *Employment market: management, cooperation, information*

3.8. The right to free movement must also be considered in the light of a common employment strategy and a pro-active labour market policy. The Eures

network has been up-and-running since 1994, and, with the help of advances in technology and operational procedures to date, has proved to be an extremely useful tool in promoting and improving cooperation between the public employment services of the various Member States, collating information from a wide range of sources, and providing information and advice. The Eures network, should, however, be extended and reinforced, by raising its profile, improving the quality and quantity of the information, e.g. providing workers with advice and instruments to facilitate their smooth integration in the working environment, and enabling them, via specific procedures, to put their CVs on line.

3.8.1. Eures must not be restricted to pooling information on labour supply and demand; it should actively promote vocational training for frontier workers in particular, access to the labour market, and social welfare issues.

3.8.2. The Committee would highlight the important role Eures could play in overcoming obstacles to the free movement of workers. The Committee stresses the need for the network to enhance and strengthen the role of the social partners, who are vital players in the dialogue and consultation procedures on employment problems. The social partners could act in concert — particularly in frontier regions — to find solutions to the problems facing workers who go abroad. However, the Commission should heed the call made by several ITUCs ⁽³⁾ for the existing consultative committees to be used more efficiently and consistently. As regards the role of the social partners here and elsewhere, the Committee feels it should reiterate its call for them to be involved systematically in Community programmes and initiatives ⁽⁴⁾.

3.8.3. The Commission intends to promote specific, information campaigns targeting the general public, labour market players, legal practitioners and the national authorities, to raise awareness of the right to freedom of movement. Here too, the problem of strengthening the Eures network, and the appointment and role of the Euroadvisors, needs to be addressed.

3.8.4. With regard to the action plan's various suggestions for improving information on job vacancies at European level, the Committee particularly agrees that cooperation between employment agencies should be stepped up, including via the Internet.

3.8.4.1. As the High Level Panel also pointed out, closer cooperation between national authorities could solve many mobility-related problems. The Commission

⁽¹⁾ COM(96) 462.

⁽²⁾ Opinion on the Green Paper on education, training, research — the obstacles to transnational mobility: OJ C 133, 28.4.1997.

⁽³⁾ Interregional Trades Union Councils.

⁽⁴⁾ Opinion on the role of the socio-economic partners in the various frontier regions and in the Interreg programmes and the Eures network: OJ C 355, 21.11.1997.

intends to suggest Member States set up contact points within their administrations to deal directly with the Commission on specific, urgent obstacles to free movement. The Committee endorses the proposal, but feels that any special contact points for migrant workers should be set up within the Eures network, in order to avoid overlapping. The contact points must provide rapid, efficient solutions to problems relating to access to public sector employment, social benefits and the right to pool contributions.

3.8.4.2. The Commission suggests that the two Advisory Committees on free movement and social security for migrant workers should merge, in order to improve efficiency and effectiveness. The Committee endorses the proposal, providing the new body is given greater operational capability, and does, in effect, provide a more effective interface between the social partners and the Commission.

3.8.5. There is, of course, a strong case for launching initiatives to make EU citizens more aware of the right to free movement, but better information on how the right is currently implemented would also be useful. The Commission should, therefore, provide a more detailed analysis of the current state of play as regards the free movement of workers, focusing particularly on levels of qualification, salary scales, and type of work. The High Level Panel's report referred to this key assessment factor, and emphasized the need for a management forecast of the qualifications the labour market will need⁽¹⁾.

⁽¹⁾ Report of the High Level Panel on the freedom of movement of persons, chaired by Simone Veil, p. 42.

Brussels, 28 May 1998.

3.8.6. In order to boost employment potential through worker mobility, the action plan provides for the use of funding under Article 6 of the ESF for innovative projects for training, redeployment or support for young jobseekers.

3.8.7. Whilst the Committee endorses this initiative, which aims to provide new opportunities for employment promotion and to remove the obstacles to free movement, it hopes the projects will not be implemented piecemeal, but that they will be framed as part of a systematic, integrated strategy capable of impacting on the structure of national systems. However, it would point out that synergies could already be activated between the Eures and Interreg programmes to provide an efficient interface between training projects and the labour market. Similarly, significant potential could be unleashed by boosting the synergies between Eures and other Community programmes.

4. The Committee is wholeheartedly convinced of the need to enhance freedom of movement, and intends to take an active part in preparations for the European Conference on the free movement of workers, scheduled for mid-1998 to mark the thirtieth anniversary of the 1968 Regulation.

4.1. The Committee calls on the Commission and the Council to press ahead with any initiatives which might be needed to make the right to free movement fully practicable, in order to make this a genuine right for all citizens.

4.2. Finally, the Committee would emphasize that the free movement of workers and citizens is one of the objectives which must be pursued — particularly via the provision of the requisite regulatory and labour market measures — in order to achieve a fully operative single market.

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