

# Official Journal

## of the European Communities

ISSN 0378-6986

C 117

Volume 43

26 April 2000

English edition

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Price: 19,50 EUR

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## II

*(Preparatory Acts)***ECONOMIC AND SOCIAL COMMITTEE****Opinion of the Economic and Social Committee on the 'Green paper — Liability for defective products'**

(2000/C 117/01)

On 30 July 1999, the Commission decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the 'Green paper — Liability for defective products'.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 15 February 2000. The rapporteur was Mr Vever.

At its 370th plenary session on 1 and 2 March 2000 (meeting of 1 March), the Economic and Social Committee adopted the following opinion by 97 votes to 1, with 2 abstentions.

**1. Introduction**

1.1. The Green Paper on liability for defective products, issued by the Commission in July 1999, provides the first real opportunity to assess the implementation of Directive 85/374/EEC<sup>(1)</sup> in the European Union. This was not possible at the time of the last Commission report, published in May 1995, owing to delays in transposition of the directive in the Member States.

1.2. The Economic and Social Committee hosted a hearing on the Green Paper in Brussels on 22 November 1999, in order to listen to the experiences and viewpoints of socio-occupational organisations, companies and consumers' associations. This Committee opinion is broadly based on the discussions that took place at that hearing.

1.3. Currently, the three main issues are:

- evaluation of the implementation of the 1985 directive,
- possibilities for its revision,
- how to improve monitoring and prevention.

**2. Comments on the implementation of the 1985 directive**

2.1. The 1985 directive was designed to establish a European model that would be applicable in all the Member States. The model relies on a balance between consumers and producers, which, as the Commission stresses, needs to be preserved. This European scheme is based on six principles:

- objective liability, no need to prove fault;
- liability linked to a cause, requiring proof of the defect and the damage;

<sup>(1)</sup> OJ L 210, 7.8.1985, p. 29.

- legal liability, that cannot be waived at the wish of the parties;
- relative liability, giving the producer exemption from liability in a certain number of explicitly listed cases;
- liability affecting first and foremost the producer or otherwise the supplier or importer by default;
- liability limited in time, with a time limit fixed at 10 years from the date on which the product was put into circulation.

2.2. The 1985 directive has gradually been implemented not only in the 15 Member States, but also in other non-EU European countries (the applicant countries, Switzerland and Norway). In view of the balance it offers the various parties concerned, the directive's provisions have also inspired liability schemes in third countries such as Japan, where this approach has been given preference over the US system.

2.3. However, there were delays in implementing the 1985 directive within the EU, owing to slow transposition in certain Member States. As a result, there has been very little time to monitor the current situation. Furthermore, it would appear that judges, lawyers and other interested parties are not always very familiar with the directive; steps must be taken to remedy this situation.

2.4. Although the directive has contributed to the upward harmonisation of national liability systems, court cases and judgements are founded first and foremost on national provisions, which are sometimes considerably more stringent than those in the directive. The directive does not preclude more stringent national provisions, and the victim of damage may invoke a national contractual or non-contractual liability law or a special liability system. In most of the Member States, victims can even obtain compensation for corporal damage via the social security system.

2.5. The overall cost/benefit balance established by the directive was designed to reconcile the interests of consumer protection, business competitiveness, motivation to innovate and liability. Improved product quality and the desire to prevent damage meant that it was possible to define damage and liability within fairly narrow parameters. It is becoming more and more common for companies to withdraw allegedly defective products or series, or, if a specific component of a

complex product is at fault, in the case of motor vehicles for instance, to call products back for checks and corrective action. Awareness and prevention campaigns have also been launched to good effect by the European Union; the Ehlass programme, for instance, addresses accidents in the home. Furthermore, most cases are apparently settled out of court, *inter alia* by mutually agreed compensation.

2.6. Although it is difficult to assess the exact impact of the directive on the European internal market, it seems to have been positive overall, inasmuch as it offers greater security by drawing together a common core of principles and evaluation methods for liability. Furthermore, the divergent situations that exist owing to specific national provisions being based on other liability systems, covered by either contract or tort law, do not appear as yet to have had a negative effect on trade.

### 3. Comments on a possible revision of the directive

3.1. The potential revision of the 1985 directive raises a number of prior concerns which demand attention.

3.1.1. As mentioned above, given the short time since the directive was transposed in all the Member States, there is not yet enough information to provide a clear overall picture of how it has been implemented, the problems raised by genuinely important cases and any shortcomings in the common system; the simultaneous existence of divergent national provisions that go further than the common rules is another factor here.

3.1.2. This lack of visibility hampers a reasoned analysis of any areas potentially requiring revision with a view to assessing and reconciling the viewpoints of the parties concerned.

3.1.3. Any revision must therefore be approached with the utmost care in order to avoid upsetting the balances that the directive has sought to achieve and to provide sufficient perspective, while accommodating changes in the field.

3.2. In the Committee's view, the necessary conditions for this process include:

- drawing from a more in-depth study of the current situation and the changes afoot;
- maintaining an overall balance between the concerns of the interested parties, which is critical for the general good;

- ensuring that the single market operates properly and that enlargement-related requirements are met;
- defining the respective roles of law-makers and the economic players, especially regarding prevention (voluntary and contractual approaches).

The specific comments below must be viewed in the context of these preconditions.

3.3. As regards the exclusiveness of the directive, it would seem preferable during the current monitoring phase to maintain the common European scheme, set up under the directive in tandem with national provisions, which may where necessary be more stringent. A European framework for these national provisions is an option as a means of preventing further disparities, but a more detailed study of the impact of disparities would be required. It must not, under any circumstances, upset the balance achieved by the directive.

3.4. Regarding the burden of proof, the directive relieves victims of damage from the need to prove the manufacturer's fault, but it obliges them to demonstrate a causal link between the damage and the product defect. In the Committee's view this arrangement is balanced on the whole.

3.4.1. The causal link is a vital element in liability without fault arrangements. It is a key part of the balance achieved by the European directive and, as such, must be preserved in the interests of all the parties concerned.

3.4.2. This balance and the legal concept that underlies it are not compatible with the alternative 'market share liability'-type scheme introduced by the US courts for certain cases. There are no grounds for introducing such arrangements in the European context insofar as the 1985 directive gives the plaintiff legal assurance that liability will always be apportioned. On the contrary, this type of scheme would fracture the very concept of liability, by distorting competition between companies in accordance with market share. It would make insurance schemes difficult to apply under strict conditions, and would be a major disincentive to individual responsibility and preventative action in companies, which is more critical than ever and should be promoted accordingly.

3.4.3. Companies should be encouraged to apply, on a voluntary basis, the criteria of transparency, availability and attentiveness to the views of the plaintiffs. Efforts should also

be made to make it easier for victims of damage to prove their case.

3.5. The development risk exemption clause has been adopted by 10 of the 15 Member States. A case of this nature has yet to arise in the five Member States where the clause does not apply. The Committee believes the clause is justified mainly by the need to preserve capacity for business innovation; the victim, meanwhile, can always invoke another basis for liability. Furthermore, development risks are either impossible to insure or insurable only at enormous cost, which would be crippling or out of the question for companies, and for SMEs in particular.

3.6. There do not appear to be grounds for changing the optional ceiling, which three Member States have chosen to apply. Raising it could complicate the use of insurance, while abolishing it would make it more difficult still.

3.7. The Committee notes that the 10-year period of limitation is part of the overall balance in the directive's common provisions and should be retained, given that it does not preclude longer periods based on other provisions. Lengthening the period would mean shifting the cost of the risk to society, with all the collective constraints and financial burden that entails, while possibly leading insurers to terminate certain policies.

3.8. The Committee is in favour of developing insurance schemes to facilitate the settlement of damages, but would stress nonetheless that the introduction of compulsory insurance provisions would pose problems regarding cost. Extensive measures in this field must not be allowed to curtail companies' capacity for innovation by exerting an excessive cost pressure, especially on SMEs.

3.9. The scope of the 1985 directive stretches beyond products; in 1999 it was extended to cover primary agricultural materials. Liability for defective services is not covered by the 1985 directive owing to the specific nature of the issues involved. The Commission is consequently planning a new measure to accommodate those particularities. Buildings are not covered by the directive either as they too have very specific characteristics (highly standardised sector, wide range of integrated products, immobility, etc.); they are regulated mainly by national provisions. It would be useful to take the opportunity afforded by increased monitoring of the EU liability system to update evaluation of the legal situation, specific issues and developments in the industry in the various Member States.

3.10. All in all, there are a number of reasons for caution regarding any revision of the 1985 directive:

- as already mentioned, the balance struck by the directive appears to be satisfactory in the main and care must be taken to ensure that it is not disrupted by piecemeal changes;
- there has not yet been enough time to monitor the application of the directive thoroughly, and that process must be completed;
- very few cases have given clear cause for the directive to be revised;
- the introduction of new European provisions would require another long and hazardous process in the national parliaments;
- the implementation of the corpus of Community legislation is already placing a considerable burden on the applicant countries, and that is a further argument for not changing the European arrangements at present.

3.11. Nevertheless, the Committee is fully in favour of actively developing more soundly-based and thorough arrangements to monitor the implementation of the directive and the development of liability systems in the various Member States by setting up an effective mechanism for collating data, while also launching new measures to strengthen European safety and prevention policy.

#### **4. Recommendations for improving monitoring and prevention**

4.1. In view of the above-mentioned difficulties in gaining a true picture of the current situations in the Member States, the Committee would stress that common tools are required to monitor the implementation of the 1985 directive, changes in national liability schemes and measures for the prevention and compensation of damage. The European Commission should promote this monitoring process as it is a *sine qua non* for any future reform of the directive.

4.2. To that end, the Commission should set up an observatory to monitor the situation in a pragmatic and workable manner. The observatory should involve all the interested parties (such as governments, the legal professions, socio-occupational groups and consumers' associations) and would be supplied with information by a regularly-updated database accessible on the Internet. It would examine:

- the legal application of the directive in the European Union;
- specific problems posed in the various areas and industries not covered by the directive;
- the information supplied by national and Community safety promotion programmes, such as the EHLASS programme which addresses accidents in the home;
- comparative developments in the Member States, especially in areas that are new in relation to the directive or go beyond its remit;
- the development in particular of case law in the various Member States;
- the comparative situation in the applicant countries and in the countries of the European Economic Area;
- the impact of this legal situation and its development on the operation of the European internal market.

4.3. This would provide the Commission with an analytical tool enabling it to prepare a detailed report within a maximum of five years on the implementation of the directive and reasoned proposals for updating or supplementing it.

4.4. The Committee also stresses the vital role of an effective, coordinated prevention policy at European Union level and in the Member States. It must involve a number of elements:

4.4.1. appropriate incentives must be maintained to strengthen prevention; ensuring that liability can be clearly apportioned is a great help;

4.4.2. the imminent European directive on product safety should provide for a greater guarantee of reliability and safety, including the withdrawal of products to prevent damage;

4.4.3. standardisation should be further developed at European level, mirroring the basic requirements of the directives; this will involve bolstering the resources of the European standards bodies, especially the European Committee for Standardisation (ECS), the European Committee for Electro-technical Standardisation (Cenelec), and the European Telecommunications Standards Institute (ETSI);

4.4.4. certification and mutual recognition of certification also play a critical part in improving product safety and consumer information; this too is an area requiring further attention;



4.4.5. codes of conduct, targeted quality assurance campaigns, and contractual provisions at company or industry level can also make a major contribution to European prevention policy.

4.5. Furthermore, improvements must be made in various areas of training:

- general education and training, from school age up through the various levels of education;
- awareness raising and training for all players in companies (company directors, managers, employees, trade unionists, etc.) in product quality and safety requirements;
- training for the public and consumers, via information campaigns in particular;
- training for judges and legal professionals, not least on the provisions of the 1985 directive.

4.6. Guarantee of compensation for damages could be improved by developing insurance schemes. These would have to apply to identifiable and homogeneous risks, especially in specific sectors. This guarantee of compensation would also have to be linked to the continuation and development of incentives for liability and prevention; the insurance option would therefore be preferred to the use of guarantee funds.

## 5. Conclusions

5.1. The cost-benefit ratio achieved through the 1985 directive appears to be satisfactory overall despite the difficulties in ascertaining its full impact. These difficulties are the result of delays in implementing the directive and the occasionally patchy development of national systems, exceeding the common provisions, in spite of the harmonisation achieved by the directive. Although the possibility of future changes to

the European directive cannot be ruled out, priority must currently be given to maintaining the overall balance already struck, improving the monitoring of the implementation of the directive and changes in the national systems, and enhancing the common prevention policy.

5.2. To that end, the Committee recommends that the Commission set up an observatory to monitor the situation, in conjunction with all the interested parties (governments, the legal professions, socio-occupational groups and consumers' associations), with a view to presenting a detailed report, within a maximum of five years, on:

- the legal application of the directive in the European Union;
- comparative developments and case law in the Member States, especially in areas that are new in relation to the directive or go beyond its remit;
- the comparative situation in the applicant countries and in the countries of the European Economic Area;
- the impact of this legal situation and its development on the operation of the European internal market.

5.3. The Committee also believes that the Commission should launch an ambitious and consistent prevention policy at European level during the same period:

- updating basic safety requirements by means of directives;
- extending and tightening up European standards;
- developing certification and mutual recognition;
- promoting codes of conduct, contractual provisions and campaigns to favour product quality and safety;
- doing more to support training endeavours in all the sectors concerned.

Brussels, 1 March 2000.

*The President*  
*of the Economic and Social Committee*  
Beatrice RANGONI MACHIAVELLI

**Opinion of the Economic and Social Committee on the 'Proposal for a Council Regulation (EC) on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters'**

(2000/C 117/02)

On 28 September 1999 the Council decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 15 February 2000. The rapporteur was Mr Malosse.

At its 370th plenary session of 1 and 2 March 2000 (meeting of 1 March) the Economic and Social Committee adopted the following opinion unanimously.

## **1. Introduction**

1.1. One of the key innovations of the Amsterdam Treaty is to bring a substantial part of what is known as the third pillar of the Union, i.e. justice and home affairs, within the Community's sphere of responsibility.

1.1.1. In accordance with Article 2 of the revised Treaty, the European Union has set itself the objective of maintaining and developing the Union as an area of freedom, security and justice, in which the free movement of persons is assured and where litigants can assert their rights, enjoying facilities equivalent to those which they enjoy in the courts of their own country.

1.2. As part of the Council's and Commission's Action Plan on how best to implement the provisions of the Treaty of Amsterdam on the creation of an area of freedom, security and justice, the Community has been asked to adopt the measures pertaining to judicial cooperation in civil and commercial matters needed for the smooth operation of the single market.

1.3. The proposed regulation submitted to the Economic and Social Committee for its opinion was drafted with the above in mind. Indeed, for the single market to operate smoothly, clear rules have to be defined setting out jurisdiction in cases of litigation between companies and citizens of different Member States, in particular to specify which court has jurisdiction. Similarly, it is necessary to set up mechanisms to ensure the recognition and enforcement of court judgements.

1.4. In matters pertaining to jurisdiction and the recognition and enforcement of judgements in civil and commercial matters, the European Commission's initiative does already have a basis on which to build. In fact the Member States, aware of the need to provide some legal certainty in cases of litigation within the single market, had, as part of intergovernmental and bilateral cooperation, drafted a number of conventions to this end. The most important of these was the so-called 'Brussels' Convention concluded on 27 September 1968 between the then six members of the European Community;

this Convention covered jurisdiction, recognition and enforcement of judgements in civil and commercial matters.

1.4.1. A Protocol on the interpretation of this Convention by the Court of Justice of the European Communities was signed in 1971. The Convention and the Protocol, which are part of the 'acquis' since they were concluded on the basis of Article 293 of the EEC Treaty, have been successively extended to cover the new Member States. It should, however, be pointed out that the current Brussels Convention, as amended following the accession negotiations for Austria, Finland and Sweden, has not yet entered into force in all the Member States, as only a minority of them have ratified it.

1.5. In parallel to the Brussels Convention, the Lugano Convention, signed on 16 September 1988, takes up the principles of the Brussels Convention between the Member States of the EU and those of the European Free Trade Association (EFTA).

## **2. The proposed regulation submitted by the European Commission**

### *2.1. The main provisions of the proposal*

2.1.1. Like the Brussels Convention and the numerous bilateral conventions it is to replace, the regulation aims to:

— introduce uniform modern standards for jurisdiction in civil and commercial matters;

— simplify the formalities governing the rapid and automatic recognition and enforcement of the relevant judgements by a simple and uniform procedure.

2.1.2. On jurisdiction the proposal establishes the principle of 'the defendant's domicile as the general ground for jurisdiction', i.e. the country in which the citizens or companies in question have their legal domicile. The regulation does, nevertheless, stipulate special provisions for some categories of litigation.



#### 2.1.2.1. Contractual litigation

Litigation is normally lodged with the court for the place of performance of the obligation in question:

- for the delivery of goods, it (the place of enforcement) will be the place where, under the contract, the goods were, or should have been, delivered;
- for the provision of services, it will be the place where the services were, or should have been, provided;
- in matters relating to maintenance, in the courts for the place where the creditor is domiciled;
- for litigation concerning relations between insurers and insured persons, the insurer may be sued in the courts of the place where the plaintiff (insurance policyholder, insured person or beneficiary) has his or her domicile;
- for contracts concluded by consumers — likewise to protect the weaker party to the contract — the jurisdiction of the country of domicile of the consumer will be recognised, including cases where goods and services have been purchased via electronic commerce;
- for employment contracts, the regulation recognises to the place of domicile of the employee.

#### 2.1.2.2. For litigations relating to tort, delict or quasi-delict

- The defendant may be sued in the court of the place where the harmful event has occurred or there is a risk of it occurring.

2.1.2.3. The regulation also establishes exclusive jurisdiction for some litigation, *inter alia* by specifying, in cases concerning intellectual property rights, the court of the Member State of deposit or registration.

2.1.3. With regard to recognition, the draft regulation establishes the principle of automatic compliance with decisions within the European Community. This arrangement means that the same proceedings cannot be recommenced in another Member State. If dispute proceedings are initiated, the procedure used will be that provided for under the section on enforcement. This same section sets out the grounds for non-recognition or non-enforcement (Articles 41 and 42); these grounds have been narrowed down quite considerably in comparison to those set out in the Brussels Convention.

2.1.4. With regard to enforcement, the regulation is founded on mutual trust between judicial authorities which must allow implementation of judgements (order, decision or writ of execution) in a Member State other than the state of origin of the court judgement.

2.1.4.1. The enforcement procedure existing in the Brussels Convention, because of the length of time and cost involved, considerably slowed down application of court decisions within the Union. This procedure has therefore been simplified in the Community's draft regulation. Thus the court enjoying jurisdiction, responsible for declaring the enforceability of a decision in the state addressed, must limit its intervention to straightforward formal checks on the documents presented in support of the application in *exequatur*. The grounds for non-execution cannot at this stage of the proceedings be raised automatically by the judge, but may be reviewed on appeal by the party against whom the enforcement is implemented.

2.1.4.2. For provisional and protective measures, the regulation stipulates that a foreign decision which has not yet been declared enforceable in the state addressed, nevertheless does establish the existence of a credit claim warranting provisional and protective measures (according to the legislation of the state addressed). Such a measure will protect the interests of the creditor pending the enforcement decision.

2.1.5. The draft regulation only applies to those Member States having subscribed to the Treaty provisions on judicial cooperation in civil matters; this excludes the United Kingdom, Ireland and Denmark from its field of application. Thus this draft regulation apparently constitutes a first in the Community's legal system, even if these countries have the option of aligning their approach on that of the twelve other Member States. It now seems that the United Kingdom and Ireland will opt to apply the regulation, while Denmark has yet to decide. As regards litigation with nationals or companies established in third countries, the national laws of these countries will apply, except in cases where there is a clause allocating exclusive jurisdiction to one Member State.

## 2.2. *Innovations vis-à-vis the Brussels Convention*

2.2.1. The Brussels and Lugano Conventions provided the model for the draft regulation. These Conventions have been undergoing revision since December 1997 and, before ratification of the Amsterdam Treaty, the European Commission had proposed a new Convention which was intended to be an improvement on the current Convention. These proposed improvements have naturally found their way into the new proposal.

2.2.2. The main innovation lies in the fact that this is a uniform draft regulation (and not a directive which could have given rise to diverging national provisions).

2.2.3. The draft regulation provides an autonomous definition of the legislation applying to commercial activities relating to trade within the single European market: the sale of goods and provision of services. These provisions obviate the need for reference to the rules of international law and are therefore intended to improve the legal certainty of trade.

2.2.4. The draft regulation extends the possibility, for all direct contracts with consumers, of applying the jurisdiction of the consumer's country of domicile, including for sales via electronic commerce.

2.2.5. The proposal simplifies the enforcement procedure to a considerable extent by limiting the power of the judge, thus promoting the free movement of judgements within the Community.

2.2.6. The proposal restricts to some extent the scope of derogations which may allow appeals against the recognition and enforcement of sentences issued in another Member State. Thus, for example, one case where a derogation is allowed is where 'the declaration of enforceability is manifestly contrary to public policy'. By adding the term 'manifestly', which was not in the wording of the Brussels Convention, the scope of the derogation has been restricted.

### 3. General comments

#### 3.1. *The scope of the opinion of the Economic and Social Committee*

3.1.1. The entry into force of the Amsterdam Treaty has meant that the Committee can carry out its advisory role in achieving the area of freedom, security and justice provided for by the Treaty. This is a key area for civil society organisations in Europe. In its capacity as sole institutional body where civil society organisations are represented, the Committee sees here an excellent opportunity for acting in the interests of the people of the Union.

3.1.2. At its plenary session of 20 and 21 October 1999, the Committee adopted its Opinion on the Proposal for a Council Directive on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (Rapporteur: Mr Hernández Bataller)<sup>(1)</sup>. In this opinion the Committee supported the Commission's proposal, but regretted that it was in the form of a directive and not a

regulation (such as the present proposal) and asked inter alia for mechanisms to be set up for providing information to the general public. The Committee welcomes the Commission's decision to convert this draft directive into a draft regulation.

3.1.3. The Committee stresses the need for consistency between the two draft regulations since the 'service' of documents is a pre-requisite to the 'recognition and enforcement' of judgements. It therefore considers that information and training measures for practitioners and citizens should be designed using a consistent and broad-based approach to the two texts.

#### 3.2. *The appropriateness of a Community instrument*

3.2.1. Replacement of the Brussels Convention in the twelve Member States participating without restriction in the justice/security part of the Treaty, by a regulation with direct application, does seem to represent significant progress, in particular insofar as it will create greater legal certainty (one single text instead of numerous conventions in a variety of forms). Moreover, the Court of Justice will be able to ensure uniform application of the provisions set out in the regulation in all Member States.

3.2.2. The Committee is pleased that the United Kingdom and Ireland intend to apply the regulation and hopes that Denmark will follow suit, in accordance with the appropriate procedure, so that this regulation may be uniformly implemented throughout the Community.

### 4. Specific comments

#### 4.1. *Improving enforcement procedures for court judgements*

4.1.1. It is clear from the conclusions of the European Council in Tampere on 15 and 16 October 1999 that this proposed regulation can only be considered as a step towards the establishment of a genuine common judicial area, in which citizens and businesses can assert and exercise their rights and carry out their obligations in full legal certainty. Thus the European Council in Tampere called on the Commission to establish 'minimum standards ensuring an adequate level of legal aid in cross-border cases throughout the Union as well as special common procedural rules for simplified and accelerated cross-border litigation on small consumer and commercial claims, as well as maintenance claims and on uncontested claims'.

<sup>(1)</sup> OJ C 368, 20.12.1999, p. 47.

#### 4.1.2. European instrument of enforcement

4.1.2.1. The proposed regulation is to be endorsed in that it simplifies the exequatur procedure; however, it falls short of establishing an efficient judicial area. Once the exequatur has been obtained, instruments of enforcement still have to be applied and these take many different forms across the Member States. Although it would appear to be very difficult to standardise enforcement procedures at the moment, the Committee proposes certain amendments relating, among other things, to protective measures.

4.1.2.2. Article 44 of the proposed regulation stipulates that the applicant may avail himself of protective measures in accordance with the law of the Member State addressed, without a declaration of enforceability under Article 37 being required. For creditors, therefore, this arrangement to some extent opens the way for a 'European instrument of enforcement'. The provision remains inadequate, however, since, even in this case, a court order is still required in some countries. Thus, it would be useful to stipulate that a court judgement made in another Member State without exequatur would be a sufficient basis for applying certain enforcement procedures, such as asset-freezing orders which exist in most EU countries.

#### 4.1.3. The need for simple and rapid redress procedures

4.1.3.1. The Committee had already stressed 'the importance of redress procedures that are rapid and easily accessible' in its Opinion on the Proposal for a European Parliament and Council Directive combating late payment in commercial transactions<sup>(1)</sup>. Proposals made in this connection were unfortunately withdrawn by the Council from the proposed directive.

4.1.3.2. The Committee thus proposes that studies be carried out into comprehensive proposals, including the simplification and acceleration of procedures and minimum standards for legal aid.

4.1.3.3. Regarding enforcement, the objective should be to establish a European instrument of enforcement, which would take effect throughout the Community as soon as a judgement is passed. This idea was examined at the Tampere European Council in October 1999 and is fully supported by the Committee.

#### 4.1.4. Towards a European instrument of enforcement

4.1.4.1. The Committee therefore calls for the European instrument of enforcement to be set in train without delay, particularly in those areas where there is some urgency:

maintenance claims, late payments, late wage payments, non-payment of wages as a result of company bankruptcy, etc. Initially, the Committee proposes that the Commission recognise the validity of this European instrument of enforcement (automatic enforcement without making it subject to an exequatur procedure) for indisputable claims. To establish the concept of a European instrument of enforcement, the Commission could propose the adoption of a 'European' recovery procedure for 'European' claims, with identical arrangements in all Member States. Such a procedure could operate and develop along lines similar to the payment injunctions currently used in Germany and France. In the long run, the general adoption of an arrangement such as this would render the exequatur procedure meaningless since any given judgement would comply with the same implementation conditions in each Member State.

#### 4.1.5. Towards a convergence of rights

4.1.5.1. In parallel, it would also be important to secure convergence of civil and commercial rights within the European Union; in the longer term this is a condition for the creation of a genuine area of freedom, justice and security.

#### 4.2. Adapting the draft regulation to electronic commerce

4.2.1. Article 15 of the proposal has provoked strong concern within the business community and provides the makings of a controversy. This article repeats the principle laid down in Article 13 of the current Brussels Convention whereby jurisdiction is held in the state of the consumer's domicile. According to Article 13 of the Brussels Convention, this jurisdiction applies as long as the consumer has been subject to a specific invitation or advertising in his state of domicile. In Article 15 of the draft regulation, the European Commission's amendment is designed to take into account the development of electronic commerce. The draft equates the offer of goods and services via the Internet with an invitation or advertising by businesses which 'by any means, ... direct their activities towards that Member State or to several countries including that Member State'.

4.2.2. The question is whether promoting its services on the Internet means that a company is deliberately seeking to expand beyond its traditional marketing area. Unlimited access to the entire planet is peculiar to the Internet. It is perfectly understandable, however, that the prospect of being brought before foreign courts could deter small and medium-sized enterprises from using the Internet to promote their services. The European Union is, therefore, facing a two-fold challenge: guaranteeing the best possible legal protection for its citizens in relation to the development of electronic commerce and its risks (particularly since it generally requires an advance

<sup>(1)</sup> OJ C 407, 28.12.1998.

payment by the consumer), while at the same time not deterring European businesses, particularly SMEs, from using this channel to promote their services. This challenge relates primarily to the European judicial area, but also involves an international dimension, particularly in terms of consumer protection, as the majority of proposals on the 'web' originate from businesses established in third countries.

4.2.3. The Committee would like to improve business/consumer relations in this new form of distribution. It is therefore a priority that the parties concerned develop confidence-building mechanisms with support from the European authorities: codes of good conduct, 'cybertribunal', recourse to mediation, etc. Such measures will provide the best guarantees for the effective development of electronic commerce and its use by businesses and consumers and should also be considered at international level. The Committee calls on the Commission to take stock of existing good practices in this field world-wide, and to support their application in Europe.

4.2.4. Pending results from these confidence-building measures, the Committee recommends preserving Article 13 of the current Brussels Convention which grants jurisdiction to the customer's state of domicile. In order to further reinforce consumer protection, the Committee feels that this principle should be extended to cases where the consumer has been induced, at the co-contractor's instigation, to leave his home country to conclude the contract. For electronic commerce, however, the arrangement proposed in the new regulation ('...by any means, directs such activities to that Member State') is not clear enough to foster a climate of trust between the parties. By retaining the definition of the current Article 13 of the Convention (invitation or advertising in the Member State), it is up to the judge to determine whether the consumer took an active or passive role in receiving the information. There needs to be a greater shift towards effective methods of dispute settlement tailored to electronic commerce and respectful of consumer protection.

4.2.5. For the electronic commerce sector, the Committee suggests a system of self-regulation which, without jeopardising access to the legal system, would encourage the introduction of automatic provisions for recourse to mediation, particularly for small transactions below a certain amount, for example EUR 2 500. Businesses should also be able to restrict

their marketing activities to certain countries by actively informing consumers. If necessary, a regulation specifically for the sector could be considered, keenly encouraging mediation and leaving the courts as a last resort.

#### 4.3. *Other recommended improvements to the current regulation*

4.3.1. In order to make the new regulation easier to interpret, the Committee would propose defining certain concepts in line with the case law of the European Court of Justice (ECJ). In relation to Article 5(3), for example, the ECJ has defined the concept of matters relating to delict or quasi-delict. Similarly, and again with an eye to clearer interpretation, some articles of the proposal could be expanded to bring them into line with ECJ case law. Examples include matters relating to a contract or, in respect of third countries, the principle of the place in which the obligation in question was or is to be performed.

#### 4.4. *Encouraging out-of-court dispute settlement*

4.4.1. The Committee places particular emphasis on the out-of-court settlement of disputes in civil and commercial matters. This may take the form of arbitration, where the parties agree to call upon an independent referee who renders an award which is binding on the parties. It may take the form of mediation and conciliation, where the two sides call upon a third party to help them resolve their litigation; the parties alone determine the outcome of the case; they are not bound by any decision. The protracted and costly nature of judicial proceedings is such that individuals and businesses, particularly small and medium-sized enterprises, are soon discouraged from starting proceedings. The Committee would also like to see the development of procedures designed to bring about agreement between the parties, particularly mediation in disputes involving individuals, provided these are straightforward, quick and inexpensive.

4.4.2. With regard to mediation, it is crucial to guarantee the quality of the service provided and the competence and independence of the mediators, as described in the European Commission Recommendation 98/257/EC concerning the principles applicable to the bodies responsible for the out-of-court settlement of consumer disputes. With this in mind, it would be useful to step up European cooperation with an eye to aligning provisions and training mediators in the settlement of cross-border disputes.

4.4.3. The Committee welcomes the plans announced at the Tampere Council to examine the measures promoting these procedures in the Community. The Committee would provide its contribution by issuing an own-initiative opinion on the subject. This contribution would be all the more significant as it would be the product of in-depth consultation with the European civil society organisations responsible for implementing these self-regulatory procedures.

4.5. *Information for litigants (point 29 of the Tampere conclusions)*

4.5.1. As in its Opinion on the Service in the Member States of judicial and extrajudicial documents in civil or commercial matters (rapporteur: Mr Hernández Bataller), the Committee underlines the importance of arrangements for providing information to litigants, particularly to citizens, their

interest groups, trade unions, small businesses and craft workers, the professions, and their associations. Such moves to provide information should also include the compilation of a 'guide for cross-border users' and the establishment of local information relays (Eures network for cross-border workers, Euro Info Centres for SMEs), so that information is widely circulated about the new rights and duties within the new common area of freedom, security and justice.

4.5.2. As for the proposed regulation itself, the Committee would propose drafting an information booklet, for users (lawyers, associations, consumers etc.) and including a table such as the one set out in the explanatory memorandum to the draft, giving an article-by-article comparison with the Brussels Convention. This information booklet would also deal with the regulation on the Service of judicial and extrajudicial documents in civil and commercial matters.

Brussels, 1 March 2000.

*The President*  
*of the Economic and Social Committee*  
Beatrice RANGONI MACHIAVELLI

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## **Opinion of the Economic and Social Committee on 'Implementation of the structured social dialogue in the pan-European transport corridors'**

(2000/C 117/03)

On 28 January 1999 the Economic and Social Committee decided, under Rule 23(3) of its Rules of Procedure, to draw up an opinion on the following subject on 'Implementation of the structured social dialogue in the pan-European transport corridors'.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for drawing up the Committee's work on the subject, adopted its opinion on 3 February 2000. The rapporteur was Mr von Schwerin.

At its 370th plenary session on 1 and 2 March 2000 (meeting of 1 March), the Committee adopted the following opinion by 113 votes in favour, with four abstentions.

### **1. Purpose of the opinion**

1.1. Since the first pan-European transport conference (1991) in Prague, the Economic and Social Committee (ESC) has committed itself to involving socio-economic groups — particularly those from Central and Eastern Europe — in political cooperation. This preoccupation has been expressed in a series of opinions<sup>(1)</sup> and is widely supported both by the organisations concerned and by political institutions. An important consequence of the ESC initiative was the inclusion of Principle 10 in the Helsinki Declaration (1997). It describes the consultation of socio-economic groups in the development of transport policy as an integral part of the common policy, with a view to achieving the objectives set out in the Declaration.

Despite the expressed commitment of the governments concerned, in practice most Central and Eastern European countries flagrantly disregard this principle. The problem of insufficient coordination and transparency at national level is mirrored at international level and prevents the socio-economic groups from playing an active role in European integration. The politicians do little to counter this deplorable state of affairs. Apart from the activities of the ESC, hardly anything has been done to implement the consultation principle since the Helsinki Conference. The ESC will therefore have to renew its efforts in this area.

1.2. The comments in this opinion are intended in particular to put into practice the conclusions of the most recent ESC opinion, entitled 'The implementation of the Helsinki declaration — establishing concrete machinery for consulting the economic and social interest groups on the definition of a pan-European transport policy'<sup>(2)</sup>. The ESC has repeatedly stated that the consultation principle in the context of

pan-European transport policy has received virtually no attention, despite the fact that such a mechanism offers an outstanding opportunity in the European integration process to promote stable democratic development with the support of citizens and their socio-economic organisations. The ESC has made it its task to give substance to Principle 10 of the Helsinki Declaration and show what opportunities are contained in it. This includes calling for the support of all those who, by endorsing the Helsinki Declaration, have made a commitment to help implement it.

1.3. In a changing institutional structure after the entry into force of the Treaty of Amsterdam and under the altered conditions of the Economic and Monetary Union and of the next stage in the enlargement process, the ESC is strengthening its institutional role as a forum and bridge for European socio-economic interest groups and in terms of its newly gained advisory role vis-à-vis the European Parliament. This is particularly important in relation to certain countries outside the Community, such as the central and eastern European countries. For the Committee it is a matter of giving its work a greater representativeness and impact and of playing an active role in the process of enlarging and democratising the EU.

### **2. Essence of the plan for consultations**

2.1. The ESC has agreed to promote consultations with the socio-economic groups in connection with transport policy cooperation in the ten priority corridors and the four transport areas (PETrAS) agreed upon at Helsinki in 1997. To this end a plan for a structured social dialogue was outlined. The important points of this approach need to be covered once again here. To avoid ambiguities, 'structured dialogue' will be the term used throughout this opinion. The social dialogue is strictly speaking a matter for the social partners and not the subject of the consultations covered by this opinion.

(1) 'Pan-European transport conference and social dialogue — from Crete to Helsinki', OJ C 204, 15.7.1996, p. 96.

'Connecting the Union's transport infrastructure network to its neighbours — towards a cooperative pan-European transport network policy', OJ C 129, 27.4.1998.

(2) OJ C 407, 28.12.1998, p. 100.



2.2. Along these corridors and in these transport areas, representatives of employers' associations, trade unions, and other interest groups are to meet to discuss problems, possible solutions and demands to be presented to political authorities, but also to build a forum in which policy expectations can themselves be discussed. Such meetings should be closely linked with the work of the steering committees set up by the governments involved. They can also base their approach on that of the existing committees for cooperation between the railway undertakings involved. A dialogue of this kind has the objective of linking extension of infrastructure with the development of efficient transport services. Only in this way can the most benefit be gained from the scarce funds available for infrastructure investment. At the same time, joint projects will have more chance of being completed successfully if economic, social and environmental goals can be linked at an early stage, so that social acceptability is furthered. Moreover, a structured dialogue should strengthen the important social function of employers' associations, trade unions and other interest groups in the central and eastern European countries (CEEC).

2.3. Cooperation in the corridors and transport areas should be characterised by continuity and commitment without imposing rigid structures from outside. The 1998 ESC questionnaire filled in by potential participants from central and eastern Europe showed that it seems sensible to use co-ordinators from those countries. This cooperation would not compete with cooperation in the relevant international organisations of the associations or at political level. The aim is rather to establish a balanced, constructive and practical form of communication between the various interest groups in the countries concerned and the transport operators.

2.4. The subject matter of cooperation would be all the questions which need to be resolved in the context of a properly operating transport system. Account must be taken of current requirements in the context of a common European transport policy, and specifically requirements for action in individual corridors and transport areas. The basis is the transport policy aims and measures agreed upon in the Helsinki Declaration.

2.5. The fundamental aim is to promote the development of a social market economy and social cohesion in a wider Union, where social forces which support market-orientated and environmentally and socially responsible economic development will be backed up. This can be summed up as a need to strengthen the links between the countries of the Union, the candidate countries and the remaining European states.

2.6. The ESC attaches special importance to the transport corridors as a connecting link and a basis for cross-frontier cooperation: they are the link between the countries of Europe even beyond the projected EU enlargement. In this respect the extension of the corridor concept to central and eastern Europe is essential and the activities should not be confined to the applicant countries. The pan-European perspective must be

retained. This corresponds to the spirit and the letter of the Helsinki Declaration, which refers to cross-frontier corridors extending to the Far East and Middle East and transport areas extending far beyond the borders of an enlarged EU.

2.7. The ESC sees its task as being to act as initiator, discussion partner and if necessary coordination point for activities on the spot. The ESC also feels it has a responsibility to represent the interests of socio-economic groups in the process of monitoring the implementation of the Helsinki Declaration vis-à-vis the other EU institutions and European organisations concerned. These activities must always be tailored to the perceived need and must be regularly reviewed in the light of political developments.

### 3. Survey of current work

3.1. On 20-21 January 1999 the G-24 transport working group met in Brussels. This goes back to a joint initiative of the Organisation for Economic Cooperation and Development (OECD) and the EU Commission on cooperation in the field of transport policy in central and eastern Europe.

3.1.1. At the invitation of the Commission, about 100 representatives of governments, administrations, financial institutes and the private sector discussed progress in building a pan-European transport network. The ESC was also represented. The main focus was on work in the Helsinki corridors and areas.

3.1.2. Among other things, it was agreed that, in addition to the necessary infrastructure development, logistic and operational conditions should in future be further improved to make cross-frontier and intermodal services more efficient. There was also a need for action on the recording of transport data and the strengthening of environmental protection. As a further development of infrastructure network planning in relation to Asia, the TRACECA project was presented; this results from a Commission initiative of 1993, and sketches out the connection between the pan-European transport network and Central Asia via the Black Sea.

3.1.3. The G-24 transport working group is to go on meeting annually. At this point it should be mentioned that, according to the Commission, this working group is to coordinate activities in implementation of the Helsinki Declaration and to establish the necessary transparency between the institutions and organisations involved. At the next meeting, planned for early 2000, the ESC should report on its own activities in this field. At the same time, the ESC perceives a need for clarification as to the role of the G-24 transport working group: its working methods, the way the participants view their policies and communications between those involved. The ESC will endeavour to have these questions discussed at the next meeting of the G-24 transport working group.

3.2. A Conference was held on 10 December 1998 at the invitation of the European Parliament (EP), on 'Pan-European transport policy: prospects and priorities for east-west cooperation'. Intended as a follow-up to the Helsinki conference, it provided a forum for an exchange of views focusing on the aims and means of east-west cooperation, the development of integrated transport systems and the possibilities for funding the trans-European networks. The ESC was invited to report on its work in this field.

3.2.1. Since then the transport committee of the EP has produced a report on the follow-up to the Helsinki conference on a pan-European transport policy. The rapporteur was Günter Lüttge. The report concentrates on the implementation of the transport policy measures set out in the Helsinki Declaration, and calls inter alia for a more coordinated approach. It confirms the approach of holding a broad social dialogue, which was also characteristic of the three pan-European transport conferences, and in particular the involvement of the social partners and non-governmental organisations. The ESC's proposals for participation by, and a structured dialogue between, the socio-economic groups in the context of pan-European transport policy are expressly endorsed.

3.3. On 18 and 19 March 1999 there was a hearing on the TINA report (Transport Infrastructure Needs Assessment), which was commissioned by the European Commission to indicate the priority infrastructure needs of the applicant countries.

3.3.1. The hearing was jointly organised by the ESC and the Commission's DG VII, supported by the latter's TINA secretariat set up for the purpose in Vienna. The objective was to ascertain the views and experience of the socio-economic groups from the countries concerned and to make it possible for them to discuss the proposals and conclusions in the report before it is finally adopted. About 40 people took part in the hearing.

3.3.2. Apart from the more comprehensive conclusions to be drawn from speeches and debates, which are covered by a separate report, the importance of the hearing itself is that it was a first practical step to implement the Helsinki Declaration, through which the Committee's involvement and the Commission's work could rationally complement each other. The hearing brought out two aspects: firstly, the need for information and exchange of views — both among the associations themselves and with the European Union's policy-makers — remains enormous; secondly, the expertise and practical experience of the associations on the spot are a more important and more necessary component in building a common pan-European transport policy, for which there has been too little scope so far.

This dialogue is particularly important since the infrastructure requirements listed in the TINA report were interpreted by many participants in the hearing as more of a wish list than a

realistic basis for planning. Considerable doubts were also expressed on the funding arrangements.

3.3.3. Another hearing is planned, to take place once the work on the TINA report has been completed. The final report has been available since autumn 1999. The work of the TINA secretariat should also be pursued in future, to support the implementation of infrastructure planning in the applicant countries and contribute to work on the corridors.

#### 4. Corridor IV pilot project

4.1. Corridor IV is a multimodal transport axis linking north-west Europe with south-east Europe. It runs from Dresden and Nuremberg through Prague, Vienna/Bratislava and Budapest to Romania. There it divides into a northern branch leading to Constanza and a southern branch from Arad to Sofia, then splits again into links with Thessaloniki and Istanbul respectively (full data on the Corridor can be found in the G-24 progress report)<sup>(1)</sup>.

4.1.1. Corridor IV includes 4 440 km of railway, 3 740 km of roads, 14 airports and 10 seaports or inland waterway ports. In the applicant countries alone, it is planned to invest ECU 16 620 million between now and 2015; this does not include the investments in Germany, Austria, Greece and Turkey.

4.1.2. The steering committee was set up early in 1998. A Memorandum of Understanding (MoU) has since been signed. The railway undertakings involved have continuously broadened their cooperation, and in conjunction with the agreement on a MoU decided on a common work programme at the start of 1997.

4.2. The third meeting of the Corridor IV steering committee was held in Prague from 30 June to 1 July 1999. The rapporteur took part in that meeting and was able to express the ESC's concerns.

4.2.1. It became clear that a structured dialogue with the appropriate representatives of enterprises, trade unions and other interest groups can provide useful support for the work of the steering committee. Of prime importance are the development of high quality transport services and the creation of a favourable climate for investment and jobs. Another important function of the structured dialogue, however, is the establishment of transparency and the exchange of practical experience on as broad a base as possible, to remove barriers to smooth operation in a way which satisfies all parties. The ESC's statements on the matter are included in the minutes of the meeting (see Appendix I).

<sup>(1)</sup> Status of the Pan-European Transport Corridors and Transport Areas, TINA office, Vienna, December 1998.

4.2.2. In addition to the most varied questions which arise in relation to such a link, there are special problems at present. Two major projects dominate the debate: the planned Bosphorus tunnel to provide a road and rail link with Asia; and a second bridge over the Danube between Vidin (Bulgaria) and Calafat (Romania). A lengthy, heated debate continues on the latter. A decisive factor for Corridor IV is that it has to cope with new traffic flows since the war in the Balkans. How to do this in future is primarily a question for the railways. The severely limited navigability of the Danube, which can hardly be improved in the short term because of the political situation, calls for favourable alternative mass transport possibilities. Finally, frontier crossing delays are a problem in this Corridor also.

4.2.3. The members of the steering committee willingly accepted the ESC's cooperation offer. It was agreed to support the ESC's activities in the Corridor and to report on the results at the latest at the next steering committee meeting in the annual cycle. Close cooperation with the newly set up Corridor IV secretariat in Dresden would have to be ensured.

4.3. On the ESC's initiative, a first meeting of the structured dialogue in Corridor IV took place in Budapest on 26/27 October 1999. The Hungarian transport ministry and Hungarian railway organisation (MAV) also played a leading role in its organisation.

4.3.1. The ESC's invitation was accepted by about 40 representatives of socio-economic interest groups from the countries traversed by Corridor IV, as well as representatives of the Corridor IV Steering Committee and the TINA secretariat, and interested observers from individual EU Member States. The discussion covered many themes, starting with basic information on the Corridor, then focusing on:

- the link between infrastructure development and private funding in the light of economic development and public service interests;
- technical and organisational aspects of the optimal provision of services in the Corridor, linked with discussion of social aspects and the prospects for cooperation;
- implications of the Corridor for regional development and environment policy.

4.3.2. The meeting brought to light a wide range of views, providing many constructive links in support of cooperation in the Corridor. It gave rise to a joint resolution underlining the interest in a structured dialogue and emphasising practical steps for its implementation and a number of concrete topics for the dialogue. The precise wording of the resolution can be found in Appendix II of this opinion.

4.3.3. Finally, the discussions in Budapest led to an initiative for a bilateral meeting of Bulgarian and Romanian business and trade union representatives, concentrating on the controversy over the question of an additional Danube crossing between the two countries. The ESC is invited to this meeting at the express wish of the participants; it will be held in February 2000 in Vidin (Bulgaria) and Calafat (Romania).

## 5. Practical consequences for future work

5.1. The first Corridor meeting as part of a structured social dialogue was a success and confirmed the ESC's basic approach. Now the decisive question is how the organisation, monitoring and coordination of the structured dialogue in transport corridors and transport areas can be guaranteed in practice, at least for the foreseeable future. For this, action is needed on three fronts:

- a) securing the ESC's role as coordinator (N.B. also the joint consultative committees);
- b) practical organisation of and financial provision for the Corridor meetings;
- c) building up contacts and team structures on the spot in the countries concerned.

5.2. The first step in consolidating the ESC's role is to set up a permanent study group. A decision on this will be sought after the close of the study group's work. Practical considerations, on which the work of the permanent study groups over the next year should be based, are set out in section 6 below.

5.3. The practical arrangements and financial provision for the Corridor meetings require professional organisation. Travel allowances should be available when needed to ensure balanced participation. The content of the meetings must be prepared and their results documented. Communication between participants must also be ensured between meetings, through a central contact point. The ESC cannot guarantee to carry out this practical work in the long term on the basis of its current resources.

However, in order to create the necessary practical support, it would make sense to draw up an independent project on the basis of the existing possibilities of assistance through EU programmes. This is of course made more difficult by the existing allocation among countries of the Phare and Tacis programmes, which are not multilateral.

An important boost to such an initiative not only in financial terms but also in terms of political weight would in this case be the setting-up of a 'supporters' circle'. Preliminary discussions with individuals have made clear their support for this idea.

5.4. Building up cooperation structures for socio-economic interest groups in the corridors and transport areas depends mainly on the interests of the participants. At the same time, they are a precondition for a rational organisation of work, and expressly called for by many individuals. It should be borne in mind that the ESC questionnaire of 1998 produced a clear vote in favour of appointing coordinators from their own ranks. Transport trade unions have in some cases started to form corridor-related teams. Practical approaches and ideas should be passed on.

## 6. Prospects

6.1. The consultations in the pan-European transport corridors and areas should promote economic and social development and strengthen cohesion in Europe. Experience to date has shown that the ESC initiative fills an important gap and can contribute decisively to the involvement of the socio-economic groups. Accordingly, the experiences of Budapest and of Corridor IV should be further developed. The ESC should have the possibility of organising further Corridor meetings next year and further building up the network of socio-economic players. There is still the possibility of cooperating with the Commission to hold a joint hearing on the final TINA report. The further points below should be taken into account in this work.

6.2. The problems of development beyond the borders of an enlarged EU have been mentioned repeatedly. In parallel with the tasks of the TINA secretariat, the ESC also sees a need to negotiate technical and political support for corridor planning particularly on the territories of the CIS (Community of Independent States). As far as the next steps in consultations with the socio-economic interest groups in another corridor or transport area are concerned, the involvement of the CIS should be ensured.

6.3. To support cooperation in the transport corridors it makes sense to set up secretariats, as has been done on personal initiative in the case of Corridor IV. The ESC suggests that general rules be laid down for this purpose.

6.4. The concept of transport corridors and areas is essentially multimodal. In practice, however, some gaps in the system are discernible. In future, more account should be taken of airports, inland waterways and ports, and public passenger transport in the conurbations concerned.

6.5. The principle of transport and regional policy cooperation on one corridor also arouses the interest of socio-economic groups within the EU. For example, such an initiative exists in Corridor V and its TEN extension to Spain. Where appropriate, activities of this kind should be considered.

6.6. In an earlier opinion (see footnote 2, p. 12) the ESC set great store by support for cooperation in two corridors: Corridor VII (Danube) and Corridor X (on the territory of the former Yugoslavia). Interest in this has been clearly expressed by the socio-economic groups concerned. It should be stressed once again that, once the political situation allows, this interest in cooperation should be put into practice.

6.7. Finally, it should be pointed out that very little is known about work in the transport areas. In comparison with developments in the corridors, it seems there is some catching up to do here.

6.8. The Commission and the European Parliament should be kept continuously informed of the ESC's standpoint and activities, especially using the EP's political contacts with the parliaments of the countries and regions concerned, so that the ESC can play its part, as a forum for European socio-economic interest groups, in the context of the 'monitoring process' to implement the Helsinki Declaration, in the establishment of a pan-European transport system.

Brussels, 1 March 2000.

*The President*  
*of the Economic and Social Committee*  
Beatrice RANGONI MACHIAVELLI

## APPENDIX I

**to the Opinion of the Economic and Social Committee****Appendix to the Minutes of the meeting of the Corridor IV Steering Committee**

The European Economic and Social Committee (ESC) is a consultative institution which represents employers' organisations, trade unions and special interest groups at EU level. The ESC has argued strongly for the integration of the socio-economic interest groups of the countries concerned in the enlargement process. The aim is to encourage rapid and stable development in order to boost economic and social progress. In the framework of the existing European agreements, joint consultative committees were established, for example with Bulgaria and Turkey.

The ESC has been actively involved in pan-European transport policy since the first conference in Prague (1991); its main aim has been to put into practice the consultation of economic and social interest groups, one of the ten basic principles on the future shape of the pan-European transport system finally enshrined in the Helsinki Declaration.

In this context the work in the corridors is of vital importance because it helps to build an efficient transport infrastructure, the backbone of economic growth and social development. We offer our support to the Corridor IV steering committee in bringing in our experience and contacts to enable the members to consult with representatives of industry and socio-economic groups from the transport sector to solve operational problems and to discuss topics on the agenda where appropriate. We are certain that the huge amount of investment in the transport infrastructure has to be combined with efforts to develop the quality of transport services. This can only have a good chance of success if the players concerned collaborate at an early stage.

We would like to support, in close contact with the secretariat now being established in Dresden, the work of the Corridor IV steering committee on the main future topics on the agenda of the working programme, e.g. border crossings, bridge/dam over the Danube. We also propose to exchange information and experience that the study group of the ESC is gathering while cooperating with the socio-economic groups in the corridor.

We propose to start these activities in the coming months and to report the results at the next steering committee meeting. It might be a good idea, depending on the agenda, to invite certain experts who have in the meantime become involved in the work to debate with the steering committee members.

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## APPENDIX II

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

Representatives of socio-economic groups from the countries involved in Corridor IV, meeting in Budapest on 26-27 October 1999, invited by the European Economic and Social Committee with the support of the Hungarian Ministry of Transport and the Hungarian Railways (MÁV),

- A. following the principles and means of the Helsinki declaration, which aims at ensuring the sustainable mobility of persons and goods under the best possible social and safety conditions, fair competition and environmental protection;
- B. stressing in particular principle 10 of the Helsinki declaration, which asks for consultation of socio-economic groups in the framework of a pan-European transport policy;
- C. in respect of the work that has been done by the parties involved, namely the European Commission, the Ministers of Transport, the European Parliament, the Economic and Social Committee, the European Conference of Ministers of Transport (ECMT), the Economic Commission for Europe of the United Nations (UN-ECE) and the railway corridor steering committees;
  1. express their wish for closer cooperation in Corridor IV to make the pan-European corridors a means for economic and social cohesion in the whole of Europe;
  2. demand that consultation with socio-economic groups form an integral part of corridor cooperation and that financial means be found to realise this objective;
  3. stress the need for more transparency and information, also with respect to institutional structures;
  4. suggest regular meetings in close cooperation with the corridors steering committees focusing on main issues where practical solutions will have to be found;
  5. ask for the assistance of the other parties involved in the corridors and call for help in financing these activities; a coordinating role for the Economic and Social Committee would be appreciated;
  6. highlight the following subjects for Corridor IV in particular:
    - hearing concerning the final Transport Infrastructure Needs Assessment (TINA) Report,
    - solution to the question of the new bridge over the Danube, using the Instrument for Structural Policies for Pre-accession (ISPA) to evaluate socio-economic consequences of this project, taking account of the interests of Romania in the northern link of Corridor IV, with the possibility of involving all interested parties; the Economic and Social Committee offers to moderate the discussion if requested;
    - corridor report on environment and transport including aspects relating to social costs and efficiency;
    - common efforts to improve interoperability and border crossings.

Budapest, October 1999.

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**Opinion of the Economic and Social Committee on the 'Commission preliminary draft Regulation on the application of Article 81(3) of the EC Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia) pursuant to Council Regulation (EEC) No 479/92' <sup>(1)</sup>**

(2000/C 117/04)

On 20 December 1999 the Economic and Social Committee decided, under Rules 23 (2) and 25 of its Rules of Procedure, to draw up an additional opinion on the above-mentioned preliminary draft Regulation.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 3 February 2000. The rapporteur was Dr Bredima-Savopoulou.

At its 370th plenary session on 1 and 2 March 2000 (meeting of 1 March) the Committee adopted the following opinion by 121 votes for, 1 vote against and 1 abstention.

## 1. Introduction

1.1. At the time of adoption of the four maritime regulations in 1986, constituting stage I of the common shipping policy of the EC, the Council invited the Commission to consider whether it was necessary to submit new proposals regarding competition, inter alia, in consortia in liner shipping. The Commission undertook to report to the Council within a year on whether it was necessary to provide for block exemption for consortia in liner shipping. The Council noted at that time that 'where the object and effect of joint ventures and consortia is either to achieve technical improvement or cooperation as provided for in Article 2 of the Regulation or where close — knit consortia only cover minor market shares the prohibition laid down in Article 85(1) of the Treaty does not apply to them'.

1.2. The need for clarification of the position of consortia vis-à-vis the competition rules was identified by the Commission in its report on 'A future for the Community shipping industry — Measures to improve the conditions of Community shipping' <sup>(2)</sup> as being one of the positive measures to increase competitiveness of the Community fleet. The ESC in its opinion on the above measures noted 'the importance of reaching an acceptable and early solution to the (consortia) issue, similar to that achieved for liner conferences in the first stage of shipping policy' <sup>(3)</sup>.

1.3. After considerable deliberation following the receipt of further information on consortia, the Commission produced in June 1990 a 'report on the possibility of a group exemption

for consortia agreements in liner shipping' <sup>(4)</sup>, with attached proposal for 'Council Regulation on the application of Article 85(3) of the Treaty to certain categories of agreements, decisions and concerted practices between shipping companies'.

1.4. On 25.2.1992 the Council adopted the enabling Regulation 479/92 <sup>(5)</sup> which empowered the Commission to apply article 85(3) of the Treaty by Regulation to exempt the joint operation of liner consortia from the anti-competitive prohibition contained in Article 85(1).

1.5. The ESC adopted an opinion <sup>(6)</sup> on the enabling Regulation which endorsed the Commission's positive evaluation of consortia and emphasized the need to avoid bureaucracy. The ESC argued that liner consortia can broadly be defined as 'co-operative ventures in the liner sector in which the lines involved engage in a range of activities on a joint basis in order to achieve the necessary advantages of economy of scale and of service rationalization in a particular trade, thus combining the concepts of vessel cost sharing and cargo pooling'. It noted that there had been widespread recognition of the value and usefulness of consortia as tools of rationalization in the container age and endorsed the findings of the Commission that 'the Community shipping industry needs to attain the necessary economies of scale to compete on the world liner shipping market' and that 'consortia can help to provide the necessary means for improving the productivity of liner shipping services and promoting technical and economic progress'.

<sup>(1)</sup> OJ C 379, 31.12.1999, p. 13.

<sup>(2)</sup> COM(89) 266 final, 3.8.1989.

<sup>(3)</sup> ESC Opinion — OJ C 56, 7.3.1990, p. 70.

<sup>(4)</sup> COM(90) 260 final.

<sup>(5)</sup> OJ L 55, 29.2.1992, p. 3.

<sup>(6)</sup> OJ C 69, 18.3.1991, p. 16.

1.6. Having noted that a block exemption from competition rules had already been granted in respect of liner conferences by Council Regulation 4056/86<sup>(1)</sup>, the ESC reached the conclusion that a regulatory regime for liner consortia was necessary and that a new independent Regulation granting block exemption was required because consortia are fundamentally different from conferences both in structure and in operation. However, it expressed the view that the Commission should spell out more clearly the lines along which it intended to proceed concerning the terms and conditions of the exemption. Such conditions should safeguard transparency and free competition at three levels: within the consortium, within the conference, and within the trade. The ESC argued for a legal treatment of consortia, subject to checks, and balances without granting a blank cheque either to the Commission or to consortia. The principle objection of the ESC was the inclusion of the multimodal transport within the scope of the consortia regulation. In its view such a complex area required to be dealt with by a separate regulation. The enabling Regulation 479/92 accorded with the conclusions of the ESC's above Opinion.

1.7. On 20.4.1995 the Commission adopted Regulation 870/95<sup>(2)</sup> on the application of Article 85(3) of the Treaty to liner consortia. This Regulation exempted all agreements whose objective is the joint operation of liner shipping services provided that they fulfilled the conditions and obligations set out in the Regulation. Moreover, it provided that a consortium should have a maximum trade share to benefit of the block exemption. Namely, three levels of trade share were distinguished:

- a trade share of 30 % or 35 % which would mean a consortium was automatically exempt
- a trade share of between 30/35 % and 50 % which would allow a consortium to apply for exemption under a simplified opposition procedure
- a trade share in excess of 50 % which would require a consortium to seek individual exemption.

1.8. The Regulation contained additional conditions and obligations such as not to discriminate between ports in the EU and to have consultations with the transport users. Finally, it included 'grandfather' provisions relating to consortia agreements existing on the date of its coming into force.

1.9. The ESC adopted an opinion<sup>(3)</sup> on Regulation 870/95 concluding that a balance between the interests of shippers and consortia must be achieved and that the competitive position of non consortia members must be safeguarded. Moreover, flexibility must be retained for consortia to respond to the needs of their users. Finally, the ESC argued that the draft Regulation needed clarification of certain terms and re-examination of certain points.

## 2. The proposed Commission Regulation

2.1. In its report on the application of Regulation 870/95<sup>(4)</sup>, the Commission found that the Regulation has worked well and examined various policy options for the legal regime following its expiry on 20.4.2000. The Commission concluded that in light of experience acquired so far and in the interests of legal certainty the best course of action would be a renewal of Regulation 870/95 with modifications until 21.4.2005.

2.2. The basic changes provided in the proposed Regulation are as follows:

- Change from trade share to market share (of each market in which the consortium operates)
- Exclusivity clauses on space chartering exempted
- Ten consortia exempted under the opposition procedure continue to be exempted
- Notifications in process under Regulation 870/95 to be automatically treated under the new Regulation
- Previous grandfathering clauses evidently deleted
- Wording simplified where appropriate.

## 3. General Comments

3.1. Eight years after adoption of the first consortia Regulation<sup>(5)</sup> the ESC notes the vast and rapid changes occurring in the international liner market. The consortia Regulations apply to consortia in the 'international liner shipping for the carriage of cargo chiefly by container', Containerisation is increasingly being introduced into liner shipping. Transportation by container vessels doubled in the period between

<sup>(1)</sup> OJ L 378, 31.12.1986, p. 4.

<sup>(2)</sup> OJ L 89, 21.4.1995, p. 7.

<sup>(3)</sup> OJ C 195, 18.7.1994, p. 20.

<sup>(4)</sup> 20 January 1999.

<sup>(5)</sup> H.Kreis: 'European Community Competition Policy and International Shipping' Fordham International Law Journal (1989-90), 411; J.Temple Lang; European Transport Law Review (1993), 405; P. Rutledge; European Competition Law Review (1991), 9; EMLO Report 1993.

1989-1998 from 249 million tonnes to 509 million tonnes. This corresponds to an annual increase of 11 %. According to the latest rough estimates prospects are for an even more rapid expansion of the container transport. This is mainly due to an increase of transports of manufactured and semi-manufactured goods. It is also expected that in the years to come there will be a shift of transportation of some bulk cargoes (e.g. grains, fertilisers, sugar) towards container transport. A reversal of the above trend is most unlikely. More particularly, since adoption of the first consortia Regulation in the period 1993-1997 the increase in container transport by sea has been dramatic amounting to 44 %<sup>(1)</sup> (expressed in tonnes). The above changes have 'led to the replacement of a labour intensive industry by one which is now highly capital intensive'<sup>(2)</sup>. These changes, on the one hand, have provided benefits regarding the level of services to shippers; on the other hand, they have led to re-organization of employment at sea and ashore. Indeed the container has become a key agent in the globalisation process, which is bringing wholesale economic and social changes to developing and developed countries alike<sup>(3)</sup>.

3.2. The above market trend coincided in time with other changes in liner shipping having competition law implications, namely: the diminishing role of conferences, the increasing importance of consortia and concentration/consolidation into larger units. Liner shipping is characterised recently by continuous mergers and acquisitions resulting in the creation of maritime giants operating hundreds of ships each and having world-wide distribution networks. This development of the so-called mega carriers contrasts with the situation prevailing in the bulk carrier market where the small company size is not the exception but the rule. While consortia are a welcome phenomenon facilitating the survival of small and medium size undertakings it is evident that the interests of small and medium size members versus the mega carriers members in the consortium should be safeguarded. Otherwise, consortia may become one of the vehicles exacerbating the trend towards concentration.

3.3. From the point of view of future policy making and rule making the above developments will have to be monitored and assessed according to their implications upon shipowners, users (shippers/receivers) and ports. The ESC invites the Commission to take into consideration 'the changing and dynamic nature of consortia'<sup>(2)</sup> in its future policy making regarding the consortia phenomenon.

3.4. For the above reasons whilst acknowledging 'the value of consortia to the economic and technological progress of the shipping industry'<sup>(2)</sup>, the ESC — in line with its past opinions<sup>(4)</sup> — reiterates the necessity of safeguarding transparency and competition vis-à-vis other consortia members as well as non consortia members — outsiders in the liner trades in question as has been done in art. 5 and art. 8 of the draft Regulation. Moreover, safeguarding the interests of users and ports should also be included in the armoury of future legal yardsticks. The above caveats should be translated into legal parameters under the EU competition rules for consortia in the future.

3.5. Bearing in mind the above considerations, for the time being, the ESC maintains that the renewal of Regulation 870/95 up to the year 2005 subject to the proposed modifications is the best possible course of action. It, therefore, fully endorses the Commission's proposal.

#### 4. Specific Comments

##### 4.1. Definitions (Article 1)

4.1.1. The ESC is broadly in agreement to provide in the consortia definition for '*multi-trade consortia*' in order to take into account recent market trends whereby consortia operate in more than one trades. This is a welcome clarification of the text.

##### 4.2. Exempted Agreements (Article 3)

4.2.1. The Regulation provides among exempted activities (Article 3(2)g) ancillary activities to consortia operations. There is clarification of applicability of the block exemption to exclusivity clauses (obligation of consortium members to use vessels allocated to the consortium and refrain from chartering space on vessels belonging to third parties) and third party clauses (obligation of consortium members not to assign or charter space to other carriers on the trade except with the prior consent of consortium members). This is a helpful clarification in light of experience from application of Regulation 870/95. It is expected to increase legal certainty.

##### 4.3. Market Share (Article 6)

4.3.1. The ESC notes that one of the conditions to be fulfilled, if exemption is to apply, provides for specific limitations on market share depending on the particular nature

<sup>(1)</sup> Data taken from Howe Robinson Research Paper Nr 9, January 1999, 'Containerization and Dry Bulk Trades'.

<sup>(2)</sup> OJ C 195, 18.7.1994.

<sup>(3)</sup> 'Container Market Outlook', Drewry, October 1999.

<sup>(4)</sup> OJ C 69, 18.3.1991.

of the consortium of 30 %-35 % or 50 % calculated by reference to the volume of goods carried. This is a most welcome change and, indeed, the major change from Regulation 870/95 which referred to 'the trade share in respect of the range of ports the consortium serves in the direct trade'. The notion of 'trade share' proved very difficult to calculate in practice. By and large, a market share criterion is more appropriate, although there could still be some difficulties in its implementation. Clarification should be sought on the description of the specific market involved.

4.3.2. The experience with the Regulation since 1995 has told that the trade share approach on the basis of port pairs is not workable. Statistics on the basis of port pairs were often not available or, if available, incorrect and/or outdated. Moreover, most statistics are based on imports/exports out of a port/country to a country at the other end and not to a port. For the reasons mentioned above and since ports are often chosen for pure operational reasons information on the basis of trade shares/port pairs has often given a misleading and/or distorted picture. The scope of competition on most shipping lanes takes place between a variety of port permutations. A market share approach is more or less the general rule in the application of competition policy. The trade share approach was the exception. Thus, the proposed change would bring the consortia regulation into line with other block exemption regulations.

4.3.3. The ESC had already criticised the imprecise use of the phrases 'ranges of ports' and 'direct trade'. The adoption of the term 'market share' already removes a source of ambiguity concerning relevant calculations. However, the ESC still believes that the Commission should clarify 'whether it intends to consider transshipment within the market share equation' <sup>(1)</sup>.

#### 4.4. *Opposition Procedure (Article 7)*

4.4.1. The same observations, as under 4.3.1 relating to the substitution of the 'trade share criterion' by 'market share', apply regarding the opposition procedure. It is noteworthy

<sup>(1)</sup> OJ C 195, 18.7.1994.

that ten consortia exempted under the Opposition Procedure of Regulation 870/95 continue to be exempted. Moreover, notifications in process under Regulation 870/95 will be automatically treated under the proposed Regulation. However, continuous compliance of consortia with the level of thresholds should be monitored from time to time.

#### 4.5. *Other Conditions — Notice Periods (Article 8)*

4.5.1. Article 8 provides for a maximum initial period of 18 months from the signing of any agreement before member lines can give notice of withdrawal from the consortium or an initial period (during which lines are locked into the alliance) of 30 months for highly integrated consortia.

4.5.2. The ESC invites the Commission to reconsider the length of period with a view of rendering it longer taking into account, on the one hand, the need for investment to be recuperated and, on the other, the need for flexibility to leave the consortium.

#### 4.6. *Final Provisions (Article 13)*

4.6.1. The 'grandfathering' clause of Regulation 870/95 referring to consortia already 'existing' in 1995 is evidently deleted.

### 5. **Conclusions**

5.1. The ESC believes that Regulation 870/95 has worked well in practice and that it has struck the correct balance between the interests of shipowners and the interests of their customers. It, therefore, welcomes the proposed renewal of Regulation 870/95 until 20.4.2005 subject to the modifications proposed.

5.2. Nevertheless, in view of rapid changes in the liner sector, the issue of consortia has to be studied and monitored in a wider perspective. Further developments and experience should be taken into consideration in assessing the legal regime of competition rules for consortia in the future.

Brussels, 1 March 2000.

*The President*  
*of the Economic and Social Committee*  
Beatrice RANGONI MACHIAVELLI

## **Opinion of the Economic and Social Committee on 'An assessment of the introduction of the single currency'**

(2000/C 117/05)

On 29 April 1999, the Economic and Social Committee decided, under Rule 23(3) of its Rules of Procedure, to draw up an opinion on 'An assessment of the introduction of the single currency'.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 1 February 2000. The rapporteur was Mr Sepi.

At its 370th plenary session on 1 and 2 March 2000 (meeting of 2 March), the Economic and Social Committee adopted the following opinion by 69 votes to two, with no abstentions.

### **1. Introduction**

1.1. It may seem premature to draw up an opinion only months after the launch of the euro, and doubtless the short interval will not permit an exhaustive evaluation of the structural impact of monetary policy in the Eurosystem. However, given public interest in euro-related matters, this report meets a widely felt need. The aim is also to develop a methodology for future use.

1.2. The two meetings with the president of the ECB<sup>(1)</sup> were very important and helped to give a clearer and more detailed insight into the broad thrust of monetary policy. In the Committee's view, these meetings are very useful for analysing the issues and establishing an on-going dialogue between the Central Bank and civil society organisations. It is therefore hoped that the dialogue will continue in the form that proves most useful.

1.3. As for the method used, an analysis is needed of monetary trends, such as credit and interest rates for instance. However, the Committee is primarily interested in the role of monetary policy in the development of elements in the real economy such as employment, GDP, industrial output and exports.

1.4. Special attention must also be given to the euro and its exchange rate, with the dollar in particular, and to the possible consequences of its growing importance as a reserve currency.

1.5. The third strand in the analysis concerns institutional issues: the relationship between the Commission, the Council of Ministers, the European Parliament, the Economic and Social Committee and the ECB, and between the ECB and the national bodies governing the banking and finance sector.

### **2. The economic climate in the euro area and the ECB's view of monetary policy**

2.1. The monthly bulletins issued by the ECB provide very useful information on the economic climate and, in particular, on monetary trends.

2.2. Following the decision in April to cut the interest rate on refinancing operations, it remained stable at 2,5 %. The interest rates on deposit and marginal lending facilities were at 1,5 % and 3,5 % respectively.

2.3. On 4 November, the ECB decided, however, to raise the refinancing rate by 50 basis points, bringing it back up to 3 %.

2.4. It would appear that the economy is now recovering from the sluggishness of the first few months of 1999, though the signs of recovery have still to be confirmed. The growth forecasts for GDP within the Community have in any case been revised upwards by the EU; the ECB believes that rather than being detrimental to recovery, this interest rate rise will provide the foundation for non-inflationary growth.

2.5. The ECB gives two basic reasons: increased liquidity (M3 aggregate) in the Eurosystem, which has settled at 6,1 % in contrast to the 4,5 % reference level set by the bank, and the upswing of certain internal price indicators

2.6. Regarding the extent of the rise, i.e. the 50 basis points, the ECB felt it was necessary, first, to give the financial markets a clear sign of the Bank's intention to maintain price stability and, second, to pre-empt the need for further more drastic measures at a later date.

<sup>(1)</sup> On 11 November 1997 and 30 June 1999.



2.7. The acceleration of economic growth, arising primarily from an improvement in the international climate, especially in the areas hit by crises, and a recovery in demand in the Eurosystem, should help to speed up the process of change in the business and services structure in the EURO area.

2.8. The indicators published by the ECB in recent months have been sending contrasting messages with regard to prices. On the one hand, it is reasonable to assume that national wage and deregulation policies launched at Community level might be enough to contain inflationary pressure. On the other hand, however, increases in oil prices, and also in those of the majority of other raw materials, as well as the revaluation of the dollar, give cause for concern, given the strong growth in liquidity, especially regarding its more volatile elements (banknotes and short-term credit).

2.9. The ECB considers that its monetary policy, which has also helped to reduce long-term interest rates, is doing as much as monetary policy can do to help address the economic and social problems facing the EU. In the ECB's opinion, it is up to economic and social policies to launch the structural reforms that are necessary to restart the growth of investment and reduce unemployment.

### 3. The euro and the economy

3.1. The Committee considers that price stability is an important precondition for boosting investment; a view shared by the ECB, which deserves recognition for its courageous interest rate policy.

3.2. However, in some countries, investment has been noticeably slow in picking up, in spite of an apparently sustainable level of stability and interest rates that are still very low. In the last few months (since May), long-term interest rates have picked up. In the light of weak inflation, the real level of the rates has risen. Long-term rates have reacted to international developments, and to the rise in US rates in particular (although the economic climate in the EU is quite different).

3.3. The ECB puts this delay down to a lack of flexibility in the European economy. On the grounds that business behaviour depends on highly complex evaluations, described in part by the ECB (labour supply and demand structure, incomplete integration of the financial and product market, and fierce international competition owing to market globalisation), the Committee believes that the current situation is compounded by insufficient activity in internal demand and, not least, in public investment, although it is aware that it is too early to make a definitive judgement.

3.4. The requirements of the Stability and Growth Pact have obliged all the countries to adopt restrictive wage and public spending policies; and the result has been the development of a contradiction, at least in the short term, within price stability policies, which on the one hand are a prerequisite for development, and on the other a major brake on growth in internal demand in most countries. (The foreign component of demand is relatively unimportant at European level. The countries in the euro area must therefore be more aware that foreign demand plays a secondary part.)

3.5. The question now is whether the balance between stability and development achieved under the Stability and Growth Pact is enough to trigger an upturn in the European economy, which must be driven largely from within.

3.6. The ECB justifies the increase in interest rates by trends shown by indicators within the Eurosystem, but it is surely no coincidence that the last two rate increases applied by the US Federal Reserve have been matched by similar ECB decisions.

3.7. The Committee does not intend to go into technical matters in its evaluation of the ECB's decisions, and it is not yet possible to assess its impact on the recovery. Nevertheless, it would seem appropriate to underline the fact that the price level was considerably lower than the 2 % set by the Ecofin Council and that the ECB's anticipatory move could, in addition to its positive effect on inflation, slow down the economic turnaround that had only just begun in certain countries.

3.8. The ECB's analysis looked first at trends in liquidity and then at a selection of indicators designed to show underlying inflation. A clearer definition of these indicators and their reciprocal bearing would be useful to provide greater assurances for operators and, above all, for the other institutions working to promote economic recovery in the Eurosystem.

3.9. The Committee supports the ECB's decision to play a consultative role in the European Employment Pact. It would nevertheless like to see a consultation process on employment involving all the European institutions, to reflect the scale of the problem. The macroeconomic dialogue in which the ECB intends to play a part will be of decisive importance here.

3.10. The Committee is in favour of changing economic structures to encourage an upswing. It would also, however, emphasise the value of the European social model, provided for under Article 2 of the Treaty and included among the Eurosystem's own objectives.



3.11. The ECB focuses on the need for a structural policy to trigger new growth, but the debate has not given enough weight to the potential of public investment to provide the European economy with a structural boost. The Committee sees no contradiction between a policy aimed at liberalising and privatising certain public industries and public intervention policies designed to strengthen productive structures when private input proves inadequate.

3.12. The euro will become a circulating currency in 2002. More attention must be given to technical, psychological and logistical difficulties that could upset the currency launch. The central banks should act fast to give the banking systems the support they need to cope with the change. The necessary monetary tools must be provided in advance to prevent imbalances that would have a damaging effect on consumers, distribution companies and, more generally, SMEs. The Committee intends to draft an opinion to explore this specific issue in more depth.

3.13. The position of the Member States outside the euro area varies, with the pound sterling essentially aligned to the dollar, and the other currencies mirroring the euro to greater or lesser degrees.

3.14. The Committee believes that it is important, even at this early stage, to assess the benefits of the euro in terms of exchange costs to companies and consumers, in order to ensure that Community legislation is applied as rigorously as possible. The Commission has drafted a memo on this subject and the Committee would like to see it published.

#### 4. The institutions and monetary policy

4.1. The institutional position of the ESCB is unprecedented. It was established under an international treaty, has sovereignty over monetary policy, liaisons with supranational and national economic policy institutions, and is part of an historic process of economic and political integration, whose institutional framework has still to be finalised.

4.2. It could be said to represent a very bold transfer of sovereignty in a highly important area of traditional national policy, in a framework in which executive and legislative power have not yet achieved a satisfactory configuration.

4.3. The primary objective of the ESCB is to maintain price stability. Its next task is to support 'general economic policies in the Community' and further the objectives 'laid down in Article 2' of the Treaty<sup>(1)</sup>.

4.4. The Committee notes that following initial teething problems, dialogue with the other institutions has begun to develop, in spite of the less than ideal circumstances created by the crisis in the Commission and the European Parliament elections.

4.5. The Treaty provides for the seat and timing of meetings. However, it is not always easy to translate the abstract provisions of the Treaty into the practicality of everyday relations, which are still not quite up to par. What is needed above all is a long-term common vision of the general objectives of Community integration. In this respect, the practice of holding periodical meetings with the European Parliament's committee on economic and monetary affairs marks a major step forward.

4.6. Furthermore, the ESCB's objectives require ECB monetary policy, the supranational institutions' market integration policy and national governments' tax policies to be permanently interlinked. Cooperation and coordination on budget policy between the governments of the Eurosystem countries is now becoming a primary requirement for monetary union. The Committee nevertheless accepts that for the time being the Stability and Growth Pact has favoured the necessary fiscal discipline and convergence.

4.7. A further institutional issue that needs clarifying is the role of the Council of Ministers in the Eurosystem and its relationship with the other institutions.

4.8. The monthly bulletins and speeches by the President and the other members of the ECB management are important channels of information for experts in the field and the other institutions. The Committee would nevertheless recommend that the ECB also focus on individual country data in its publications. An effort should probably be made to be more transparent and to provide more information for the rest of the public. In this respect, the Committee can see a significant role for itself as the link with civil society organisations, in the belief that the backing of public opinion is of vital importance to the work of the ECB.

<sup>(1)</sup> Article 2 of the ECB statute: 'In accordance with Article 105(1) (ex Article 105(1)) of this Treaty, the primary objective of the ESCB shall be to maintain price stability. Without prejudice to the objective of price stability, it shall support the general economic policies in the Community with a view to contributing to the achievement of the objectives of the Community as laid down in Article 2 (ex Article 2) of this Treaty. The ESCB shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 4 (ex Article 3a) of this Treaty.'

## 5. Financial policy

5.1. Trends in the euro/dollar exchange rate over the coming months will depend primarily on interest rate developments in the United States and Europe.

5.2. Meanwhile, the US financial market is bolstered not only by the dynamism of the economy, the interest rate gap and the consequent flow of financial resources towards US markets, but also by the fact that the European financial market is still too fragmented and heterogeneous in its national laws and that most domestic trade is still conducted with national currencies. Nonetheless, there have recently been encouraging developments in the integration of the euro monetary and financial markets.

5.3. In this context it might be useful to take a look at the supervision of banks, financial establishments, and also that of financial markets, currently the responsibility of the national central banks (or other special supervisory bodies), with the ECB playing only an advisory role. As the Treaty (Article 105) gives it a degree of power in this respect, the Council should look carefully into expanding the coordinating role of the ECB regarding the major European banks, with a view to effectively harmonising practice and regulations, and applying a single set of criteria.

## 6. The international role of the Euro

6.1. The ECB considers that monetary reserves in the central banks of third countries have slowly started to diversify in favour of the euro. It is reasonable to assume that there will have been no major transfers in the early months, particularly in view of the persistent trade surplus.

6.2. The rise of the euro as an international reserve currency could in any case pose problems for the world economy that would be very difficult to manage. The Committee hopes that an international agreement will be sought to help steer a peaceful course through the transition towards a significant diversification of the monetary reserves of the national banks of third countries.

6.3. There is a high risk of systemic crises on the world financial market, which could have a negative impact on the Eurosystem. For this reason, support must be given to G7-led efforts in the area of global coordination, control and supervision. In any event, in practical terms, an area of monetary stability in Europe should help to make capital markets less volatile and unpredictable.

6.4. In this context, the persistent dominance of the United States in IMF decisions should spur the European countries — starting with Eurosystem members — to speak with a single voice, particularly now that 11 of them share a single currency.

6.5. The high value of the dollar can be explained by the fact that in the last few years the trade deficit has been offset by an influx of foreign capital resulting from specific profit conditions in the US. The risk of accelerating inflation or, more generally, changes in these favourable conditions, could lead to an outflow of capital and a consequent reduction in the value of the dollar against the euro.

## 7. Conclusions

7.1. The Committee believes that the introduction of the single currency has, in just a short time, had a positive impact on the Eurosystem economy, by preventing an increase in speculation on national currencies and establishing conditions that will strengthen the European financial markets, for bonds and shares alike, and consequently bring down interest rates.

7.2. The establishment of the euro has brought a degree of stability, lessening the risk that individual countries will adopt restrictive policies to counter speculation.

7.3. With time, the single currency could provide third countries with an alternative to the dollar as a reserve currency, promote cohesion within the European Union and pave the way for a more harmonised budget policy.

7.4. The credibility of a currency always depends on expectations for the future; in the euro's case, this means expectations for the sustainable growth of the Eurosystem. The performance of the euro at international level may partly be explained by the institutional uncertainty which clouds the management of the Eurosystem economy. In the Committee's view, the starting points for enhancing the role of the euro as a world currency are stronger institutions, faster market integration and reform, and measures to lay the foundations for development.

7.5. The strength and stability of the euro will depend not only on purely monetary measures, but also, and above all, on income or economic policies to promote structural reform, employment and social cohesion. These measures should equip the Eurosystem to compete even more effectively with the world's other economic areas.

7.6. The Committee believes that the institutional dialogue launched with the ECB could play an important role as it sets the scene for better coordination between monetary policies and the objectives, needs and prospects of the European economy as a whole.

#### **8. Latest rise in the interest rate on the main refinancing operations**

8.1. The fact that over the last 20 years the rate of the ecu against the dollar has fluctuated between 1.7 and 0.6 <sup>(1)</sup>, would suggest that recent trends are far from exceptional. The Americans rarely discuss the dollar quotation, and the Europeans would do well to accept variations in the euro's exchange

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(1) See article in the *Wall Street Journal* of 28 January 2000.

Brussels, 2 March 2000.

rate. If the basic strengths of the European economy are to be translated into a more positive exchange rate movement, structural reforms in the product, service and capital markets will have to be stepped up (Cardiff process).

8.2. The European capital market must develop a better climate for new business in the more technologically dynamic areas of the economy.

8.3. The 25 basis point increase introduced by the Federal Reserve and then by the ECB beg one further comment from the Committee. The Federal Reserve decision was followed by an announcement by the US treasury secretary of a considerable debt buyback programme, meaning that the restrictive measure imposed by the monetary authority was largely offset by the treasury's liquidity injection. This would not have been possible in the Eurosystem, where, in the absence of a single body to govern the economy (or a treasury secretary), the ECB is alone in determining the system's liquidity.

*The President  
of the Economic and Social Committee*  
Beatrice RANGONI MACHIAVELLI

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**Opinion of the Economic and Social Committee on 'The 2000 Intergovernmental Conference —  
The role of the European Economic and Social Committee'**

(2000/C 117/06)

On 24 November 1999, the Bureau of the Economic and Social Committee instructed an ad hoc group, made up of co-rapporteurs Ms Sigmund, Mr Little and Mr Piette, to draft the Committee's Opinion on 'The 2000 Intergovernmental Conference — The role of the European Economic and Social Committee'.

At its 370th plenary session on 1 and 2 March 2000 (meeting of 1 March), the Economic and Social Committee adopted the following opinion by 137 votes to 10, with 25 abstentions.

## 1. Introduction

Imminent major scale enlargement has presented the European Union with an unprecedented challenge, and it is up to the European institutions to find an appropriate response.

Before enlargement, the European Union needs institutional reform, to enable it to continue the function effectively, consistently and transparently, while safeguarding the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles that are common to the Member States.

The European Union's institutions and bodies are therefore each required to reflect on means for reform, and to make proposals accordingly.

The ESC is aware of its responsibility as the forum for civil society organisations.

It is in this spirit that the ESC has prepared its contribution to the 2000 IGC, with a view to preparing for enlargement and contributing effectively to European integration.

## 2. The current role of the committee

The Economic and Social Committee was established by the Treaty of Rome as the only European-level consultative body to gather together the 'various categories of economic and social activity'. The representatives of these categories reflect the whole gamut of civil society organisations and the Committee offers them a forum for debate and reflection.

The ESC currently consists of 222 members drawn from organisations representing employers, employees, farmers, carriers, SMEs, craft industries, the professions, cooperatives, consumers, environmental interests, the voluntary sector, families and young people. The proportion of representatives from each domain varies from country to country. The Committee is, therefore, a non-political assembly which encompasses a broad swathe of experience and high-level, well-respected expertise.

The Committee's consensus-based procedures for making decisions are a mirror image of the communication methods inherent to civil society organisations. At the ESC, the representatives of civil society organisations receive direct information and are able to express their views and defend their interests. Its proximity to the public enables the ESC to contribute directly and effectively to the transparency and democratisation of European integration. It is more than just an institutional framework for consulting the economic and social operators, it is also a bridge between Europe and the diverse and complex world of civil society organisations.

## 3. The need for change

The Committee has always stressed that European integration should not be treated as being static but as a constantly evolving process. At previous IGCs, the Committee has, therefore, always suggested reforms that advance this process.

Enlargement is more than a challenge, it is also an opportunity for the European Union to reform its institutions. The Committee hopes to acquire the appropriate means to enable it to enhance its contribution to European integration, ensure enlargement is successful and respond to the changes in and expectations of civil society organisations.

## 4. Recommendations

### 4.1. Membership

The Committee is made up of representatives of the various components of organised civil society.

Its membership must take account of the need to ensure proper representation of the various categories of economic and social activity and of the general interest.

Furthermore, regarding internal organisation, the Committee is resolute as to the need to maintain its three-group structure. Groups I and II bring together representatives of social partners, while Group III represents the other European civil society organisations, and completes the ESC's diverse membership.

#### 4.2. *Method of appointment*

The current method of appointment must be maintained for reasons of subsidiarity and transparency and to preserve the necessary direct communication link between the civil society organisations of the Member States and the ESC.

Nonetheless, the ESC does not rule out the possibility at some time in the future of additional direct and limited appointment by representative European organisations recognised by the EU institutions, taking account, where necessary, of similar changes which may occur in other institutions. Thought must be given to the rules to be adopted to govern such appointments.

#### 4.3. *Number of members*

The Committee acknowledges fully that membership increases arising from enlargement will have to be limited.

With this in mind, the general principle of the equal treatment of the Economic and Social Committee and the Committee of the Regions must apply.

Geographical balance, and in particular an adequate level of representation of the smaller Member States, should be maintained.

#### 4.4. *Period of office*

The period of office of Committee members should be lengthened to five years, in order to bring the Committee into step with the Commission and the Parliament.

Appointments must remain renewable.

#### 4.5. *Tasks*

There is room for improvement on a number of scores.

The principle of compulsory referral must be maintained. It should even perhaps be extended to cover areas such as culture, migration policy or possibly questions relating to non-discrimination. However, the Committee could be left to judge for itself whether a Commission proposal merits an opinion; it would then inform the Commission of the reason for its decision.

The Committee places particular importance on performing its advisory role at the early and exploratory stages of developing new legislation. To give that emphasis and to concentrate on the key areas of strategic importance, the Committee intends to be more selective in its work.

To ensure greater transparency in the decision-making process, opinions produced by the ESC at the request of a European institution should be followed up. Institutions that have consulted the ESC should inform it of their response to the opinions requested.

Furthermore, the Committee's consultation role should be improved to increase the added value it offers the other institutions and to enable it to act as the contact point for civil society organisations. This could be achieved by:

- offering the Commission a pre-legislation 'exploratory' option for consulting the Committee,
- giving the Committee responsibility for organising or coordinating consultation on specific complex subjects,
- setting up the Committee as a suitable meeting point for the civil dialogue that should be built up between the civil society organisations,
- and strengthening the role of the ESC as the framework for consultation between the economic and social partners.

On its own initiative the ESC will also pay more attention to monitoring and promoting follow-up to its opinions.

#### 4.6. *Establishing the committee as a fully fledged institution*

(p.m.)



## 5. Proposal on the articles of the treaty concerning the Economic and Social Committee

Current text of EC Treaty	ESC proposals																														
<p><b>Article 257 (ex-article 193)</b></p> <p>An Economic and Social Committee is hereby established. It shall have advisory status.</p> <p>The Committee shall consist of representatives of the various categories of economic and social activity, in particular, representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations and representatives of the general public.</p>	<p><b>Article 257</b></p> <p>A <b>European</b> Economic and Social Committee is hereby established. It shall have advisory status.</p> <p><b>The Committee shall consist of representatives of the various economic and social components within organised civil society.</b></p> <p><b>Its membership shall take account of the need to ensure adequate representation of the various categories and of the general interest.</b></p>																														
<p><b>Article 258 (ex-article 194)</b></p> <p>The number of members of the Economic and Social Committee shall be as follows:</p> <table> <tr><td>Belgium</td><td>12</td></tr> <tr><td>Denmark</td><td>9</td></tr> <tr><td>Germany</td><td>24</td></tr> <tr><td>Greece</td><td>12</td></tr> <tr><td>Spain</td><td>21</td></tr> <tr><td>France</td><td>24</td></tr> <tr><td>Ireland</td><td>9</td></tr> <tr><td>Italy</td><td>24</td></tr> <tr><td>Luxembourg</td><td>6</td></tr> <tr><td>Netherlands</td><td>12</td></tr> <tr><td>Austria</td><td>12</td></tr> <tr><td>Portugal</td><td>12</td></tr> <tr><td>Finland</td><td>9</td></tr> <tr><td>Sweden</td><td>12</td></tr> <tr><td>United Kingdom</td><td>24.</td></tr> </table> <p>The members of the Committee shall be appointed by the Council, acting unanimously, for four years. Their appointments shall be renewable.</p> <p>The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of the Community.</p> <p>The Council, acting by a qualified majority, shall determine the allowances of members of the Committee.</p>	Belgium	12	Denmark	9	Germany	24	Greece	12	Spain	21	France	24	Ireland	9	Italy	24	Luxembourg	6	Netherlands	12	Austria	12	Portugal	12	Finland	9	Sweden	12	United Kingdom	24.	<p><b>Article 258</b></p> <p><b>The total number of members of the Economic and Social Committee shall be equal to</b></p> <p><b>[...] to be decided</b></p> <p><b>The number of members from each Member State shall be as follows:</b></p> <p><b>[...] to be decided</b></p> <p>The members of the Committee shall be appointed by the Council, acting <b>by qualified majority</b>, for five years. Their appointments shall be renewable.</p> <p>The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of the Community.</p>
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<p><b>Article 259 (ex-article 195)</b></p> <p>1. For the appointment of the members of the Committee, each Member State shall provide the Council with a list containing twice as many candidates as there are seats allotted to its nationals.</p> <p>The composition of the Committee shall take account of the need to ensure adequate representation of the various categories of economic and social activity.</p> <p>2. The Council shall consult the Commission. It may obtain the opinion of European bodies which are representative of the various economic and social sectors to which the activities of the Community are of concern.</p>	<p><b>Article 259</b></p> <p>1. For the appointment of the members of the Committee, each Member State shall provide the Council with a list containing twice as many candidates as there are seats allotted to its nationals.</p> <p>The composition of the Committee must take account of the need to ensure adequate representation of the various <b>economic and social components within organised civil society and geographical balance.</b></p> <p>2. The Council shall consult the Commission. It may obtain the opinion of European bodies which are representative of the various economic and social sectors to which the activities of the Community are of concern.</p>																														



Current text of EC Treaty	ESC proposals
<p align="center"><b>Article 260 (ex-article 196)</b></p> <p>The Committee shall elect its chairman and officers from among its members for a term of two years.</p> <p>It shall adopt its Rules of Procedure.</p> <p>The Committee shall be convened by its chairman at the request of the Council or of the Commission. It may also meet on its own initiative.</p>	<p align="center"><b>Article 260</b></p> <p>The Committee shall elect its chairman and officers from among its members for a term of two <b>and a half</b> years.</p> <p>It shall adopt its Rules of Procedure.</p> <p>The Committee shall be convened by its chairman.</p>
<p align="center"><b>Article 261 (ex-article 197)</b></p> <p>The Committee shall include specialised sections for the principal fields covered by this Treaty.</p> <p>These specialised sections shall operate within the general terms of reference of the Committee. They may not be consulted independently of the Committee.</p> <p>Subcommittees may also be established within the Committee to prepare on specific questions or in specific fields, draft opinions to be submitted to the Committee for its consideration.</p> <p>The Rules of Procedure shall lay down the methods of composition and the terms of reference of the specialised sections and of the subcommittees.</p>	<p align="center"><b>Article 261</b></p> <p>The Committee shall include specialised sections for the principal fields covered by this Treaty.</p> <p><b>The Committee shall determine its own working procedures.</b></p> <p><b>It shall lay down procedures for obtaining the views of the various economic and social components representing organised civil society at European level when drawing up its opinions.</b></p>
<p align="center"><b>Article 262 (ex-article 198)</b></p> <p>The Committee must be consulted by the Council or by the Commission where this Treaty so provides. The Committee may be consulted by these institutions in all cases in which they consider it appropriate. It may issue an opinion on its own initiative in cases in which it considers such action appropriate.</p> <p>The Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time-limit which may not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time-limit, the absence of an opinion shall not prevent further action.</p> <p>The opinion of the Committee and that of the specialised section, together with a record of the proceedings, shall be forwarded to the Council and to the Commission.</p> <p>The Committee may be consulted by the European Parliament.</p>	<p align="center"><b>Article 262</b></p> <p>The Committee must be consulted by the Council or by the Commission where this Treaty so provides.</p> <p><b>The Committee shall issue an opinion on a Commission legislative proposal or any other question if it considers it appropriate. The Committee may also be consulted by the European Parliament, the Council and the Commission.</b></p> <p><b>The European Parliament, the Council or the Commission</b> shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time-limit which may not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time-limit, the absence of an opinion shall not prevent further action.</p> <p>The opinion of the Committee together with a record of the proceedings shall be forwarded <b>to the European Parliament</b>, the Council and to the Commission.</p> <p><b>The institutions shall inform the Committee of their response to the opinion requested.</b></p>

Brussels, 1 March 2000.

*The President*  
*of the Economic and Social Committee*  
 Beatrice RANGONI MACHIAVELLI

## APPENDIX

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

The following draft amendment, which received at least a quarter of the votes cast, was rejected in the course of the discussions:

Amendment tabled by Mr Malosse, Mrs Pari, Mr Rodríguez García Caro and Mr Vever.

**Point 2, second paragraph**

Amend to read as follows:

'The ESC currently consists of 222 members drawn from organisations representing employers, employees, farmers, carriers, SMEs, craft industries, the professions, co-operatives, consumers, environmental interests, the voluntary sector, families and young people. The proportion of representatives from each domain varies from country to country. Many members also carry out activities and have responsibilities in representative European organisations recognised by the EU institutions. The Committee is, therefore, a non-political assembly which encompasses a broad swathe of experience and high-level, well-respected expertise.'

*Result of the vote*

For: 47, against: 100, abstentions: 12.

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**Opinion of the Economic and Social Committee on the 'Communication from the Commission:  
A Concerted Strategy for Modernising Social Protection'**

(2000/C 117/07)

On 26 July 1999, the Commission decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 February 2000. The rapporteur was Ms Cassina, and the co-rapporteur was Mr Vaucoret.

At its 370th plenary session on 1 and 2 March 2000 (meeting of 1 March), the Economic and Social Committee adopted the following opinion by 94 votes to three, with four abstentions.

## 1. Background

1.1. There has been a wide-ranging debate on social protection in the EU for a number of years. It was sparked when, as part of the implementation of the Community Charter of the Fundamental Social Rights of Workers, two recommendations were proposed and adopted on:

- common criteria concerning sufficient resources and social assistance in social protection systems<sup>(1)</sup> and
- the convergence of social protection objectives and policies<sup>(2)</sup>.

1.2. The aim of these recommendations was to promote a degree of convergence between the social protections systems of the Member States and to confirm a number of basic rights, with a dual objective: to ensure compliance with common, minimum social standards and to establish a welfare set-up that removed the type of disparities that upset market dynamics. The two provisions were the first (and are, as yet, the only) European standards in the field.

1.3. In 1995, the Commission published a communication on the future of social protection: a framework for a European debate<sup>(3)</sup>. This document aimed to bring the discussion up to date against the backdrop of the ongoing process of economic and monetary union and persistently high unemployment levels. Demographic trends in the EU countries were seen as a necessary frame of reference, though current demographic trends (falling birth-rate and an ageing population), and in particular the prospect of the baby boomers born three decades earlier reaching pension age within the next 20 to 30 years, should have been taken into consideration long before.

1.3.1. The specific importance of macroeconomic and monetary convergence and stability policies in relation to social, demographic and employment policies taken as a whole had become obvious. The indisputable need to balance public budgets, was the main factor pushing the Member States' governments to adjust their social security systems. A look at the reforms carried out<sup>(4)</sup> shows that not all the issues were always taken into account, giving rise to inconsistent results which sometimes penalised certain social sectors.

1.3.2. With that document, the Commission sought to draw attention to all the various reference parameters, in particular the relationship between social security as a universal guarantee system and active measures to promote employment/employability in the EU.

1.4. A little over a year later, the Commission added more fuel to the debate with its communication on Modernising and improving social protection in the European Union<sup>(5)</sup>, following up the Member States' reactions to the 1995 document. It undertook to carry out a number of more detailed investigations including: research into the cost and impact of social protection, a green paper on supplementary pension systems, an analysis of measures taken to ease fiscal pressure on employment, a study into preventive health measures, and a review of the regulations on the coordination of pension schemes for migrant workers. The Commission invited the social partners to contribute to the debate and asked the Member States and the Community institutions to establish a permanent dialogue on strategies for modernising social protection systems.

1.5. The ESC issued opinions on the above proposals and communications, and also developed its ideas further by means of a number of own-initiative opinions<sup>(6)</sup>.

<sup>(1)</sup> OJ L 245, 26.8.1992, pp. 46-48.

<sup>(2)</sup> OJ L 245, 26.8.1992, pp. 49-52.

<sup>(3)</sup> COM (95) 466 final.

<sup>(4)</sup> See MISSOC reports for 1996 and 1998.

<sup>(5)</sup> COM(97) 102 final.

<sup>(6)</sup> ESC opinion on modernising and improving social protection in the European Union, OJ C 73, 9.3.1998; ESC opinion on the future of social protection, OJ C 66, 3.3.1997.

## 2. A concerted strategy for modernising social protection

2.1. As the title suggests, the communication aims to outline a set of objectives and instruments to develop a concerted strategy for modernising the social security systems, against the backdrop of the already established framework, which combines observance of the stability and growth pact, a commitment to make social protection systems more favourable to employment, and confirmation of social protection as an important shared value of the EU in the context of enlargement.

2.2. On 29 November 1999, the Council adopted its conclusions on the Commission proposal with rather exceptional speed, before the European Parliament or the Economic and Social Committee had time to state their views. Nonetheless, the decision has the potential to trigger a major process opening up many opportunities, and the methods and procedures developed to manage it will certainly affect the social partners. The ESC will therefore express its opinion as planned, concentrating mainly on the best methods for ensuring that the decision is implemented fairly and efficiently.

2.3. The objectives proposed by the Commission as the basic framework for modernising social protection are to:

- make work pay and provide secure income;
- make pensions safe and pension systems sustainable;
- promote social inclusion;
- ensure high quality and sustainable health care.

The Commission also stresses that concern for equal opportunities for men and women must be mainstreamed in all four objectives.

2.4. The bid to reach these objectives will be shored up by 'enhanced' mechanisms for exchanging information and 'monitoring policy developments'. The Member States will designate 'high level officials to act as focal points in this process'. They are also invited to work out the detail of the strategy, while the Commission has undertaken to prepare a new annual report on social protection.

## 3. Comments

3.1. The Committee welcomes the Commission's pledge to promote the debate on these subjects and its intention to base the modernisation of social protection on consultation of all

those concerned. It also endorses both the Commission communication and the Council conclusions of 29 November 1999, subject to the comments and observations set out below.

### 3.2. The background

3.2.1. As the communication has a number of significant precedents, including the Council's 1992 recommendations and the Commission's communications of 1995 and 1997, the Committee believes that consistency with the objectives that have been established over the years is essential. Furthermore, modernisation must in all instances mean improvement. The four objectives (and the mainstreaming) recommended by the communication should be taken as a whole, treated as being of equal value and pursued simultaneously. As strong, high-quality social protection systems are an integral part of the European social and economic development model, their social objectives should be paid just the same attention as their economic sustainability. In other words, there must be no doubt that investments in health, living conditions, the fight against poverty and marginalisation, and active measures to help people find jobs are by their very nature productive investments as they enrich society and its contribution to development. This is the meaning of the statement: 'social protection is a productive factor'.

In the past, the European social model has worked effectively with the social protection systems and provided a vital boost to the competitiveness of the economic system as a whole; room must be left for this mutually beneficial relationship between the social model and the economic system to continue and develop when the systems are modernised and improved.

3.2.2. Greater employment opportunities and increased participation in the labour market are necessary conditions for modernising social protection without being blinkered by macroeconomic and budget compatibility. The completion of the single market and the development of economic and monetary union have created what ought to be ideal conditions for sustained job-generating growth. A few months ago, the Committee stated that growth was still insufficient, productive investment remained inadequate<sup>(1)</sup> and domestic demand

<sup>(1)</sup> See the ESC Opinion on The macroeconomic dimension of employment policy, OJ C 368, 20.12.1999, p. 36, paras. 5.1.2 and 5.2.2.

appeared sluggish. More recently, economic results and forecasts have been somewhat better, but nevertheless the structural measures used to stimulate employment, the development of more employability-focused social protection systems and active reintegration policies must be accompanied by resolute growth and investment support measures that broaden the productive and employment base, increase labour productivity and do not penalise household consumption.

3.2.3. The redistributive function of social protection systems is essential and must be preserved, fine-tuned and permanently bound to the aim of promoting social cohesion and overcoming marginalisation and exclusion of all kinds. A recent Eurostat<sup>(1)</sup> study shows that social transfers (excluding pensions) significantly reduce the percentage of people under the poverty threshold. The extent of this reduction varies, however, from one Member State to the next, and within individual countries. Therefore, although the Commission is right to state that the more interdependent the Member States' economies are, the more social protection becomes a matter of common concern, any joint action must pay careful attention to the differences highlighted by the study. This also applies to the implementation of other common policies, especially those relating to the Structural Funds. The Commission admits that current economic change is likely to generate uneven redistributive effects and that new categories of people may find themselves at risk (for instance, workers with fixed-term or temporary contracts who will experience periods of unemployment with no income support, women, poorly-qualified older workers, single-parent families, single-income families and people with disabilities). Policies and decisions on modernisation must be tailored to specific national and regional conditions. Above all, however, they must be based on clear forecasts regarding the social effects of future economic trends, always giving priority to supporting and promoting the interests of the most vulnerable categories.

3.2.4. In the employment guidelines for 1999, the Council stressed the need to relieve the burdens on the recruitment of young people and to encourage older workers to retire later, in order to help make social protection systems more sustainable. In general, the Committee is whole-heartedly in favour of this approach. Keeping older people at work can be compatible with the recruitment and employability of young people, providing that quality and productivity are promoted for both categories. The ESC notes that, in certain countries, conditions for early retirement are defined by contracts negotiated between the parties or by legislative provisions.

When this is not the case, recourse to early retirement may be wrongful or at least negative in some instances, particularly where it is applied by companies or industries that are in no financial difficulty but simply wish to streamline their production, carry through mergers or enhance their balance sheets (the abuse of the early retirement option is no less damaging when agreed between a company's workers and management). For both social and economic reasons, flexible pension policies should be developed as an alternative to early retirement and lifelong learning programmes should be established in order to encourage workers to retrain in good time and find new areas of employment. Workers who have been in particularly wearing jobs for long periods should be given special attention.

3.2.5. Although many Member States are currently raising the retirement age, this trend cannot go on indefinitely. The 1997 communication contains a graph that illustrates the labour productivity gains required to maintain the financial sustainability of public social protection systems in the coming decades, on the basis of the current structure of social protection systems (without allowance for possible future changes), and taking the ageing of the population into account. It shows that annual labour productivity must rise from its current level of (approximately) 0.2 to a little over 0.7 by 2025. This would appear to be feasible, if sufficient attention is given simultaneously to research, technological development and life-long learning. This presupposes ongoing consultation between the social partners to release the resources for these investments and sustain them over time.

3.2.6. Social protection systems and the way they are financed vary a great deal from country to country. In its employment guidelines (guideline 14), the Commission has called for targets to be set for gradually reducing the tax burden on labour and non-wage labour costs, without undermining the recovery of public finances or the financial equilibrium of social security schemes. There is no immediate, universally acceptable way to take this guideline into account. The use of general taxation to compensate for a reduction in the tax burden on labour (particularly on relatively unskilled employment) is a non-starter in the absence of tax harmonisation among the Member States, which are tending to reduce taxes on factors other than labour in order to stay competitive and keep attracting outside investment. Furthermore, demographic, economic and social factors play a major role in the long-term financial stability of social protection systems. For the time being, therefore, the Member States must continue trying to strike the right balance by reaching a consensus between the parties concerned, while always bearing in mind the need to protect the weakest members of society.

(1) 'Social benefits and their redistributive effect in the EU', by Eric Marlier, in 'Population and social conditions', August 1999.



3.2.7. Similarly, regarding health spending and the need to ensure a high quality service, the Member States should continue to ensure that everyone has access to the services they need and to care that meets their specific needs. On this point, the development of mutual associations and universal preventive measures can play a key role in all the Member States.

3.2.8. The present communication's analysis of the relationship between the concerted strategy for modernising social protection and enlargement is somewhat brief. The Commission must rapidly disseminate the in-depth and up-to-date study currently being drafted on the current situation and trends in the applicant countries. It is not enough simply to suggest that these countries must 'work towards the development of efficient, effective and sustainable social protection systems'. The convergence criteria for the applicant countries should be well-grounded and clear. Furthermore, provision should be made, as part of the concerted strategy (which should involve the applicant country social partners), to determine how accession aid is geared to developing and strengthening the social protection systems of the future members. This is vital for many reasons, not least the need to address rising unemployment among women, young people and highly-qualified managers — a new phenomenon in countries where, until ten years ago, there was a high level of employment for these categories (higher even than in the best-placed EU countries). Promoting the European social model in the applicant countries will also require a specific look at these problems as they affect each individual country's social system, while bearing in mind that issues relating to the structure and financing of social protection systems are not covered by the current corpus of Community legislation. The Committee welcomes the principle of including the applicant countries in the concerted strategy, but believes this must happen soon to prevent the accession negotiations from generating further imbalances and difficulties in the applicant countries' welfare systems; such problems could arise during the process of implementing the body of Community legislation, because of the predominance of economic and monetary concerns.

3.2.9. The Commission has published comprehensive reports on the demographic situation and trends in the EU over recent years. As the ESC is examining this important issue in an information report, it will touch on it only briefly here, inasmuch as it relates to social protection. However, it should be noted that the Commission communication's demographic analysis appears to be geared largely to stressing the need to guarantee the financial sustainability of public welfare systems. This vast and complex subject calls for a thorough debate, the

outcome of which remains to be seen. Nonetheless, the negative demographic trend affecting most of the Member States, which looks likely to lead to a reduction in the current European population, appears to lie at the crux of the matter.

3.2.9.1. Although in many cases the current downwards trend in birth-rates reflects a voluntary decision to have fewer children, it would also appear to be rooted in a number of problems linked to social benefits and the way they work. These problems vary in their form but are common to many Member States. The causes that have combined to put people off raising larger families, to name but a few, include high levels of unemployment; the absence or lack of a family policy to provide good quality childcare facilities and to ensure an adequate income and job security during parental leave, and other measures designed to help reconcile work and family commitments; inability to accommodate changes in family structure and to mainstream these issues in national policies; and uncertainty stemming from a series of rapid social, industrial and behavioural changes that the European public have yet to take fully on board.

3.2.9.2. Many experts have suggested that within a few decades the EU could face a labour shortage and be obliged to 'import' labour from third countries, and that the contributions of those workers would help to finance the social protection system. This prospect too requires immediate in-depth analysis, without straying into an abstract debate on whether immigration would/could change the current face of the EU. A look should be taken, meanwhile, at ways of opening up the current social protection systems while they are being modernised and equipping them to deal with the problems associated with the reception and integration of future immigrants.

### 3.3. *The instruments*

3.3.1. The Commission quotes from a March 1999 European Parliament Resolution which asked it 'to set in motion a process of voluntary alignment of objectives and policies in the area of social protection modelled on the European employment strategy'. The formulation of a 'common political vision of social protection in Europe', hoped for by the Commission, is an extremely important objective that will involve complex transactions affecting the whole of society. Effective measures will therefore be needed to guarantee a truly democratic, i.e. participatory, process.

3.3.2. Responsibility for bringing the various social protection systems up to date lies primarily with the Member States. The social protection modernisation strategy cannot possibly, therefore, be based on binding legislation not wholly endorsed by the Member States, or, most importantly, labour and management. The latter must be closely involved in the modernisation strategy at both national and European level. Without prejudice to the possible development of a concerted process of modernisation which takes on board some aspects of the Luxembourg process, the ESC believes that it is too early to define quantitative objectives and insists on the need to build solid qualitative and methodological foundations, establishing all the conditions for a strong consensus supported by all social and institutional players at every level.

3.3.3. The existing welfare systems grew out of agreements, between social operators and governments, that almost always involved difficult periods of bargaining and often even conflict. The strong and responsible involvement of all the interested parties is, therefore, an essential element in the modernisation of these systems, as part of a concerted strategy. The Commission does invite the social partners to take part in the process via the Social Dialogue Committee, but it should also specify the role and powers of that committee more clearly. In particular, it should be possible by means of the European social dialogue to make a detailed assessment of current developments in a number of Member States that have launched processes to adjust their social protection systems by means of negotiations between the various interested parties. Furthermore, the potential link between the group of national experts and the European social dialogue must be determined. If the 'exchange of experiences, mutual concertation and evaluation of ongoing policy developments...', mentioned by the Commission, does not specifically involve a debate between all the players, it will be limited to contacts between govern-

ments (or, still worse, between the 'high-level senior officials' who are to manage the process).

3.3.3.1. The Committee stresses that, as well as requiring the participation of the social partners, the concerted effort to modernise social protection systems must also be backed by reliable and systematic data. It welcomes the Commission's intention to build on the Social Protection in Europe Report<sup>(1)</sup>, and to publish it annually. The Commission report must provide a starting point for the discussions of the group of national experts. The ESC could be involved in the preparatory work, and after publication the report should be referred for an opinion (a procedure which would clearly also have to involve the European Parliament and the Committee of the Regions). Where appropriate, the European Parliament, the ESC and the COR could take part as observers in the meetings of the group of national experts.

3.3.4. The Committee welcomes the reference to the involvement of the European Parliament, the ESC, the Committee of the Regions and, as already mentioned, the applicant countries. The Committee is willing to provide support, especially in the happy event of the rapid development of bench-marking procedures for comparing the situations in the Member States and highlighting best practice. The ESC stresses the fact that there should be an ongoing, detailed study of current national trends and experience, based on practical examples. To that end, the Committee is ready to lend all its support to the bench-marking process in conjunction with the European Parliament.

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<sup>(1)</sup> The Social Protection in Europe Report is currently published every two years in conjunction with Eurostat and the social security departments of the Member States. It provides a detailed summary of trends and suggests measures that could be of use.

Brussels, 1 March 2000.

*The President*  
*of the Economic and Social Committee*  
Beatrice RANGONI MACHIAVELLI

## Opinion of the Economic and Social Committee on 'Hungary on the road to accession'

(2000/C 117/08)

On 29 April 1999 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 'Hungary on the road to accession'.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 February 2000. The rapporteur was Mr Gafo Fernández and the co-rapporteur was Mrs Florio.

At its 370th plenary session on 1 and 2 March 2000 (meeting of 1 March), the Economic and Social Committee adopted the following opinion unanimously.

### 1. Introduction

1.1. Hungary is one of the countries initially selected at the Luxembourg Summit for accession to the European Union.

1.2. Hungary was selected on account of the significant progress it has made in meeting the political and economic criteria laid down at the Copenhagen European summit. This progress will be examined in detail below.

1.3. The rapporteurs for this opinion have also been in contact with the European Commission and the Hungarian Embassy to the European Union, and the study group visited Hungary in October 1999, meeting various representatives of government and the social partners. The resolutions of the European Parliament<sup>(1)</sup> and of the EU-Hungary Joint Consultative Committee<sup>(2)</sup> have also been taken into account.

### 2. The economic and social situation in Hungary in 1999

2.1. It clearly emerges from all the sources consulted that in general, Hungary has reached a highly advanced stage of preparation for EU accession.

2.2. Hungary reformed its constitution in 1989. In the wake of the May 1998 parliamentary elections, a tripartite coalition government was formed, representing 213 of the 386 parliamentary deputies. The prime minister of this centre-right government, Mr Orbán, belongs to the majority Fidesz party which won 38,3 % of the vote and 148 seats. The main opposition party is the MSzP (socialist) with 34,7 % of the vote and 134 seats. The president of the republic possesses some powers, but performs a mainly representative function.

Lastly, it is worth noting that Hungary became a full member of NATO in March 1999. All sources indicate that in general, Hungary's democratic institutions and parliamentary system are functioning properly, and meet the criteria for entry to the European Union.

2.3. Hungary's relations with its neighbours have improved markedly in the last few years. Agreements were signed in 1996 with Slovakia and Romania. A number of minor problems with both countries persist concerning Hungarian-speaking minorities and, in the case of Slovakia, use of the Danube.

2.4. Economic data for 1997 and 1998 point to strong recovery in growth rates, rising by 4,4 and 4,5 %: the latest estimates for 1999 point to growth of 4,2 %. Inflation is falling, although it still stood at 10 % in 1999, falling from 14,9 % in 1998, far higher than comparable rates in the euro zone. Government deficit fell slightly from 4,8 % in 1997 to 4,5 % in 1998 and 3,9 % in 1999: high growth rates did not succeed in bringing this figure down lower. Two further significant factors are the unemployment rate (8 % in 1998, 6,5 % in 1999) which, given earlier economic circumstances, has generated a degree of social tension in a country used to full employment; and secondly, a current account deficit of some 2,5-3,5 % of GDP over the last five years, although this has been offset by major inflows of foreign investment to a value of some 21 000 million euros.

2.5. The country has made significant progress in deregulating and privatising key sectors of the economy, particularly since the new law of 1995, although some individual problems have arisen. The Hungarian economy may, in general terms, be considered to be totally integrated into the free market flow, with 80 % of GDP generated by the private sector and 64 % of foreign trade being conducted with EU countries.

<sup>(1)</sup> Resolution on the regular report from the Commission, adopted 15 April 1999.

<sup>(2)</sup> Agricultural policy and Hungary's accession to the EU; reforming social welfare systems in the EU and Hungary; the social dialogue.

2.6. The situation in the different production sectors has been affected by major variations, partly due to privatisation processes. Although there has been a major shift of workers

away from agriculture to other sectors in recent years, it still employs a considerable part of the work force (9,4 % in 1998 according to Eurostat sources, 7 % in 1999 according to Hungarian sources). A further such shift is likely in the future. In 1998 micro-enterprises (less than 10 employees) provided work for some 1 million people; small enterprises (10 to 49 employees) 360 000, and small and medium-sized enterprises (50-249 employees) approximately half a million. Together, then, they account for close to 50 % of the working population (source: ILO, Budapest, 1998).

2.7. The industrial sector has a dual structure. While a small number of foreign-investment-based companies achieve relatively high levels of productivity, many others, geared to the domestic market, suffer from low productivity and, most importantly, inadequate technology, meaning they cannot readily fit into an open, competitive system. The environmental challenges can be particularly formidable.

2.8. The service sector appears to be advancing at a faster pace, often because the activities involved are totally new and as such, do not require restructuring. However, there is a clear need to press ahead with modernisation.

## 2.9. *Developments in Hungarian industrial relations (Appendix 1)*

2.9.1. The reorganisation of the labour market during the 1990s led to fragmentation of representative arrangements, affecting both trade union confederations and employers' organisations.

2.9.2. The transition to a market economy ushered in a pluralist model of industrial relations. Four of the main trade union confederations have emerged from the previous Hungarian confederation (SZOT), and have undergone reform (MSzOSz, Autonomous, SZEF, ESZT), and two new ones have been set up (LIGA and MOSz).

Most of the numerous sector-based trade unions are affiliated to one of the six most representative confederations.

This fragmentation of representative structures was also fuelled by the freedom of trade union association law, which allowed groupings of at least 10 workers to register as a works union (1989 Law of Association). Many attempts at inter-union mergers or cooperation have been made, but have never advanced beyond an embryonic, experimental stage, and the efforts have proved inadequate<sup>(1)</sup>.

2.9.3. The six most representative trade union organisations are affiliated to the ETUC (European Trade Union Confederation). With the support of the ETUC, a National Trade Union Committee for Integration (NUCI) was set up in Hungary under the aegis of the Phare programme, as in the other CEECs. This body channels information on European affairs and enlargement issues to the unions. All trade union organisations are also kept informed of, and consulted on, questions arising from the EU accession negotiations. The Hungarian NUCI coordinator is an official member of the government's strategic working group on integration.

2.9.4. A tripartite forum was set up in late 1988, leading in turn to the establishment of the Interest Conciliation Council (ICC). The aim was to head off conflicts and provide employers', workers' and government representatives with a system for two-way consultation and information and for reaching agreement between the parties. The fragmentation of employers' and trade union representation has clearly also had implications for the work of the Council, and for the impact of its decisions.

2.9.5. The Council has discussed the minimum wage and the question of pay increases in sectors exposed to competition, and a number of national agreements have been signed. Other legal and socio-economic questions have also been broached.

Under the rules governing the Council's operation, the social partners were entitled to be informed on all specifically labour-related matters, and to take an active part in framing legislation. The government was required to carry out consultation before adopting legislation<sup>(2)</sup>.

At the suggestion of the ICC, the Labour Code has been amended in a number of points, particularly with regard to the protection of workers not covered by collective labour contracts.

2.9.6. Fresh consultations on amendments to the Labour Code, and on the government's new plans for social dialogue structures, commenced in March 1999. The ICC has been abolished, along with the Social Security Management Committees, with no prior consultation of employers' or trade union organisations.

Under the proposals submitted by the government to parliament, works' councils would be able to enter into negotiations directly at company level, even where there is no trade union presence.

<sup>(1)</sup> G. Casale: *Workers' Participation in CEECs* (ILO, 1998).

<sup>(2)</sup> See the EU-Hungary JCC document of 26 October 1998 *Social policy: the social dialogue*, drawn up by László Sándor.



2.9.7. In practice, the Hungarian government's new approach is to dismantle social dialogue structures and replace them with a system of separate forums (see appendix) which, while broadly-based, have few decision-making or advisory powers. Two types of forum have been set up: Labour Forums, and economic and social consultative forums. The Labour Forums are strictly tripartite (government, employers and trade unions). The other two major arenas for discussion (the Economic Council and the Social Council) are to meet only twice yearly; membership is to be extended to the Hungarian Central Bank, the Stock Exchange Council, representatives of multinationals and some chambers of commerce. On the Social Council, the government is to encounter representatives of disadvantaged sectors of society, the disabled, non-governmental organisations and various associations, but not the social partners.

2.9.8. A degree of decentralisation of Hungary's planned economy began as early as 1968. This resulted in a shift of responsibility for setting pay structures away from the national trade union centre towards workers' representative bodies within individual companies<sup>(1)</sup>.

2.9.9. The Labour Code, as put forward in 1992, has undergone a series of changes over recent years, initially intended to model Hungarian labour relations on the German system. Under the system thus conceived, works councils would be able to conclude agreements relating to the immediate workplace, while the national sector federations were responsible for agreements covering more than one company.

2.9.10. Trade unions are presently authorised to enter into company-level agreements only if they have secured 50 % of votes cast in the last works' councils election.

2.9.11. Employers are represented by nine national organisations, now linked in a single association set up for international issues. The Hungarian Employers' Confederation for International Cooperation (MMNSZ), which was set up in January 1999, is the only such association affiliated to UNICE. Private employers' associations are not authorised by their member companies to conclude collective agreements or enter into commitments binding upon the latter. The main role of the employers' associations seems to be more to represent economic and commercial interests to the government. This goes some way to explaining the significant fall in the number of collective agreements concluded since the high point of 1991 and 1992.

2.9.12. The transition to a market economy has heralded serious economic and social consequences for many sectors of Hungarian society. Unemployment reached a worrying peak in 1993 (11,3 %). Large numbers joined the lists of the

long-term unemployed at this time. According to the Commission report (October 1999), the unemployment rate had fallen back to 7,8 %, but with significant regional variations and a marked increase among minorities<sup>(2)</sup>.

2.9.13. The new government has restructured the state apparatus, creating a new Ministry of Social and Family Affairs, while the responsibilities of the Ministry of Labour, established in 1990 and abolished in 1998, have been distributed between the Ministry of Economic Affairs, the Ministry of Education and the Ministry of Social and Family Affairs.

2.9.14. The national public health service, set up to provide preventive health care, and the works inspectorate, whose tasks include monitoring workplace health, are frequently uncoordinated and possess inadequate resources to meet public needs and to prevent work-related accidents.

2.9.15. Administrative decentralisation cannot be described as complete, although structures have been set up at regional and sub-regional level. Regional financial resources remain restricted, and are spread between the nine ministries involved: this also applies to measures to combat unemployment<sup>(3)</sup>. Public employment agencies have been set up for this purpose. Use has also been made of NGOs, which have examined vocational retraining and back-to-work schemes. Over recent years, such bodies have significantly stepped up their activities and boosted their political influence<sup>(4)</sup>.

2.9.16. Turning to the overall cost of the social security system (approximately 24 % of GDP), the Hungarian government is preparing thorough-going reform of the pensions scheme by setting up a legal framework guaranteeing (1) the establishment and operation of private pension funds, based on compulsory contributions, (2) an optional supplementary scheme (Law LXXXII of 1997), and (3) a compulsory state pension scheme<sup>(5)</sup>.

2.9.17. The government has set up an equal opportunities department, charged with pursuing a policy of equal opportunities for men and women. Several associations and NGOs are working to strengthen the role of women at work.

<sup>(1)</sup> Andras Toth: *The transformation of industrial relations in Hungary in South East Europe Review*, 3-1998.

<sup>(2)</sup> See the ESC information report of July 1999 *Stocktaking of the employment situation and the social situation in the applicant countries*.

<sup>(3)</sup> G. Juhas: *Threats against further integration?*, Lund University, Stockholm, 1998.

<sup>(4)</sup> World Bank, regional office in Hungary: *NGO stock-taking in Hungary*.

<sup>(5)</sup> See the EU-Hungary JCC document of 26 October 1998.



2.9.18. The number of NGOs grew rapidly following the collapse of the regime in 1989. Some 60 000 are currently registered, employing more than 47 000 people and with an economic turnover equivalent to 1,5 % of GDP. This is an approximate figure which includes foundations, associations and local organisations that are not all fully operative. The Prime Minister's Office has a department responsible for strengthening and supporting the role of the associative and voluntary sectors in Hungary.

2.9.19. While the work done by voluntary associations is to be welcomed, the Economic and Social Committee would voice its doubts concerning the structure and role of the associative movement, which in no way can stand in for the basic tasks for which government institutions are responsible, and for the legitimate representation and involvement of the socio-economic players.

2.10. Although there are major variations in development levels between the different regions of Hungary, they are no greater than those existing within EU Member States.

2.11. Administrative reform has made considerable headway, although much remains to be done. Less progress appears to have been made in modernising the police. This could become an urgent problem in view of the emergence of organised crime.

2.12. The Phare programme has clearly scored notable successes over recent years in areas such as industrial restructuring, privatisation and institutional reform and consolidation. Since 1998, the priorities under the PHARE programme have been the same as those set out in the Pre-accession Strategy, thereby becoming one of the main elements in the strategy. However, the social partners are critical of the use of Phare programmes, as they raise difficulties in terms of access and management. One of the major problems is the need for government support and agreement.

### **3. Summary of the talks held by the study group in Hungary**

3.1. The study group responsible for preparing the present opinion visited Hungary shortly after the publication of the European Commission's second evaluation report on Hungary's progress towards EU accession.

3.2. During its visit, the study group was able to meet several Hungarian government officials closely involved in the accession process, as well as the group of EU delegation officials responsible for monitoring the process and, in particular, the most representative socio-occupational organisations. The following conclusions were reached in the wake of the visit.

3.3. The first, emphasised by virtually all the socio-occupational organisations consulted, was the breakdown of the structured social dialogue with the Hungarian government.

3.4. This has culminated in the replacement of the ICC, where the social dialogue was conducted, with a series of six consultative committees. This has fragmented the work previously carried out by the ICC, although in some cases the effect has been to broaden the functions involved. Furthermore, many of these advisory bodies have no rules of procedure, or rules which do not specify how often, and under what circumstances, they should meet and reach decisions.

3.5. The picture regarding employers' and workers' organisations is very mixed, with nine organisations representing the former and six the latter. The employers' organisations have, however, set up a coordinating body, HECIC, as the first step towards progressive integration. The study group also met the main consumers' association which, despite modest resources, is highly active and makes a considerable public impact.

3.6. The study group was able to meet with representatives of Hungarian NGOs. There are 60 000 NGOs in the country, 30 000 of which are currently active. This remarkable number in fact covers many types of business organisation, often cooperatives but sometimes full-scale companies which have evolved in this direction from the former collectivist structures on account of the tax benefits it offers.

3.7. The Hungarian government vigorously supports NGOs and sees them as an alternative to direct dialogue with the conventional socio-occupational organisations. A practical instance is that all natural persons may freely allocate 1 % of their annual income tax to an NGO of their choice. In contrast, contributions by companies to employers' organisations, or by workers to trade unions, cannot be set against tax.

3.8. The study group was favourably impressed by the expertise of Hungarian government officials working on accession, and congratulated them on several occasions. The support provided by the European Commission has helped in this respect.

3.9. Two causes for concern, however, emerged from the meetings with both the social partners and government officials.

3.9.1. The first aspect, in the unanimous view of those the study group spoke to, is the EU report's over-emphasis on the Roma ethnic group (and not minority), and on corruption. Both issues are overestimated. In the case of the Roma, they

accepted that the problem existed but felt that it was less serious and intense than described in the report. Concerning corruption, they quoted a recent report by Transparency International in which Hungary scored better than one of the EU's founding countries and came close to a number of other Member States.

3.9.2. The second, and more far-reaching, cause is that the lack of a firm, predictable date for accession is generating a degree of public disenchantment and uncertainty over attempts to bring Hungary fully into line with the *acquis communautaire*. The study group was told on several occasions that lengthy postponement of the accession date might provoke a slow-down in adjustment efforts.

#### 4. Analysis of the current state of the accession procedure

4.1. This section is based on three references. The first is the European Commission's December 1998 and October 1999 reports on Hungary's preparations for accession. The second includes various documents and reports, in particular the European Parliament's opinion on the question<sup>(1)</sup> and the resolutions adopted by the EU-Hungary Joint Consultative Committee<sup>(2)</sup>. The last is the outcome of the rapporteurs' contacts with both the European Commission and the Hungarian mission to the EU and, in particular, the study group's meetings with socio-occupational organisations and authorities in Hungary in October 1999.

4.2. The recent Helsinki European summit, insofar as it established a more favourable climate for accession by applicant countries meeting the political and economic requirements and in terms of adopting the *acquis*, was good news for Hungary in its efforts to join the European Union at the earliest possible date.

4.3. The Economic and Social Committee would point out that the initial stages of the EU accession process are always difficult, as they entail a country surrendering certain legal and administrative powers to a supranational authority. Moreover, in the case of the current applicants, such as Hungary, it involves a major effort to attune production structures and social practices to more demanding standards.

4.4. However, the ESC must also point out that the experience of the 15 Member States has been highly positive:

not only has the EU brought peace and mutual trust to Europe, it has also created a new dimension of mutual support and shared progress, facilitating the spread of a unique economic model, described as the 'European social model'. Under this model, all the economic and social actors defend their own interests, while jointly pursuing the shared social good.

4.5. The Committee would repeat that the process of integrating a country, in this case Hungary, into the EU is a joint task involving every part of that country's society. It must therefore express its concern at the lack of an open social dialogue between the Hungarian government and the country's most representative socio-occupational organisations.

4.6. The ESC does not consider itself qualified to make any judgment on the ultimate causes of this situation, or on any individual responsibilities on the part of those concerned. It does, however, wish to call upon the Hungarian government, together with the socio-occupational organisations, to seek compromise formulas allowing the dialogue to be restored. Without this dialogue, accession — while perhaps not impossible — will at the least experience significantly greater difficulties in terms of implementation and acceptability to Hungarian society as a whole.

#### 4.7. Comments on the political situation

4.7.1. The ESC agrees with the bulk of the European Commission's analysis. In particular, it shares the Commission's views on the consolidation of the democratic and governmental system, and on the system of individual freedoms. It was also able to confirm that the workings of the judicial system have improved following an injection of more and improved material resources.

4.7.2. With regard to corruption, the ESC accepts that isolated problems do exist in certain areas such as, for example, the security forces and border controls; priority action should be taken here as part of the reform of the country's administrative machinery.

4.7.3. The ESC acknowledges the existence of a problem regarding the Roma community, requiring urgent corrective action. It would, however, express the following qualifications.

4.7.3.1. The 600 000-strong Hungarian Roma community, which also exists in other applicant countries as well as in many EU Member States, must be respected by the public authorities and the general public.

(1) Resolution on the regular report from the Commission, adopted 15 April 1999.

(2) *Reforming social welfare systems in the European Union and Hungary; Social policy — social dialogue; Agricultural policy and Hungary's accession to the EU.*

4.7.3.2. Efforts to end the discrimination suffered by the Roma community should hinge upon a series of positive measures — which do seem to have been launched in a medium-term Action Plan by the Hungarian government — especially education, and in some cases specific support programmes in which employers' associations and trade unions can play a prominent part. Such policies must not, however, lead to compulsory assimilation of the individuals belonging to this community.

4.7.3.3. The ESC considers it unacceptable to equate the situation of the Roma community with that of the Hungarian minorities in other central European countries. Major political and cultural differences separate them.

#### 4.8. *Comments on the macroeconomic situation*

4.8.1. The Hungarian economy is making highly satisfactory progress towards stable, non-inflationary growth, while striving to reduce government deficit to acceptable levels.

4.8.2. The Committee would, however, point to some macroeconomic difficulties possibly facing Hungary.

4.8.2.1. The first is the effect of the recent introduction of a system of fixed parity with the euro (on 1 January 2000) on a more rigorous anti-inflation policy. Similarly, the supervisory capacity of the overall financial system must be strengthened.

4.8.2.2. The need to continue reducing the fiscal deficit ties in closely with this. Three problems arise in this area, in the Committee's view. The first is the need to continue and speed up reform of public administration, which may require a significant rise in pay levels and even in the numbers of specialist officials. Secondly, the significant share of the regional and local authorities in public sector expenditure. Thirdly, the inadequate tax base, which is clearly indicated by the considerable weight of the black economy and the system of tax exemptions. Solving the government deficit will require coordinated, simultaneous action on all three fronts.

4.8.2.3. A further cause for concern is the polarisation of the economy into clearly externally-oriented, competitive sectors, whose success is closely linked to the foreign direct investment they receive, and production sectors geared to the domestic market, and which may not be competitive. The Hungarian government must try to speed up the transformation of these sectors before the complete disappearance of tariff barriers and other forms of protection which, under the Europe Agreement, is scheduled for 31 December 2000.

4.8.2.4. Progress in the privatisation process is highly satisfactory. The national fiscal deficit has been reduced by selling loss-making enterprises and reducing government debt, with a consequent cut in debt servicing. Specific difficulties arose in privatising one public bank, but these have now been resolved. Another element which should be borne in mind is that 14 % of farm land still remained unprivatised at the end of 1998. This could have a considerable impact on applying the *acquis communautaire* in relation to the Common Agricultural Policy (CAP). The risk of a slow-down in the final privatisation drive should not be underestimated if the accession negotiations do not advance at the rate the Hungarian authorities would wish.

4.8.3. To sum up: by the end of the preparatory period, the Hungarian economy could be in a position to compete openly on world markets, provided that productivity continues to rise strongly and overall incomes do not outstrip it, in line with inflation, employment and quality of life targets, and provided that investment in modernisation increases, funded either from domestic savings or from foreign investment. It is the ESC's view that the overall competitiveness of the Hungarian economy — especially its industrial sector — should be subject to systematic and detailed analysis by the European Commission.

#### 4.9. *Comments on the internal market and the situation of the different economic sectors*

4.9.1. With regard to the exercise of the four freedoms underpinning the single, border-free market, Hungary appears to be making good progress with the construction of a legal framework in line with the *acquis*, although the process of joining Community standardisation systems such as CEN and CENELEC should be speeded up in order to reach the 80 % harmonisation level set out in a recent Hungarian government decree by the end of 2000. In the future, the ESC should consider extending its remit by means of the Joint Consultative Committees (as it does with the Single Market Observatory) in order to detect practical obstacles in the applicant countries and suggest how to remove them.

4.9.2. Some problems have arisen in the application of Community competition law. Incorporation into Hungarian law of the agreement set by the Association Council has raised some problems of constitutionality, since the Hungarian constitution does not allow the direct application of non-Hungarian legislation. As a result, the Hungarian law transposing the decision of the Association Council has to be amended to bring it into line with the constitution. Similarly, a number of difficulties exist concerning proper accounting and supervision in the state aid system. To resolve these, the Hungarian government has set up a monitoring agency for such aid. On the other hand, Hungary does appear to be making great strides forward in adjusting the laws and procedures governing public procurement.

4.9.3. The agricultural sector represents one of the key — and also most complex — factors in the accession procedure, on account of its economic weight and, above all, its social repercussions. The EU-Hungary Joint Consultative Committee has recently voiced its views on this subject<sup>(1)</sup>. Its recommendations focus on three elements:

- acceptance of the financial perspectives agreed at the Berlin European Council;
- the possible impact on rural employment and migration to urban areas of inappropriate application of the CAP. Ways must be found of maintaining a decent standard of living for Hungarian farmers;
- pursuit of a mutually acceptable compromise on compensatory farm aid.

The ESC supports these conclusions of the Joint Consultative Committee. They should be used as a benchmark for progress in the agricultural negotiations.

Moreover, Hungary has called for a 10-year transitional period for the purchase of agricultural land by non-Hungarian citizens, cooperatives or limited companies. While reserving judgment on the merits of the request itself, the ESC would like to suggest a possible compromise solution whereby natural persons who are EU nationals and are actually resident in Hungary, or agricultural cooperatives registered in the country, could purchase land immediately.

4.9.4. In the transport field, Hungary has made great advances in implementing new legislation in line with the *acquis*, although there is still some way to go. In its opinions on pan-European transport policy<sup>(2)</sup>, as well as in the Resolution of the Joint Consultative Committee<sup>(3)</sup>, the Committee highlighted Hungary's key role in the TINA initiative, as well as the need to set up major rail, and especially road, infrastructure programmes. The JCC also suggested separating transport issues relating to the Hungarian economy's international dimension from those relating, at least initially, to the domestic market. Lastly, the JCC emphasised the need to improve training systems for workers and the self-employed in the transport sector.

4.9.5. In telecommunications, Hungary has asked for its exclusive rights in telephone services to continue until 2002. Wherever technically and economically possible and socially acceptable, the Committee would call for certain high added value and high growth rate services (e.g. data transmission networks, mobile communications) to be liberalised faster, as the effects on the economy's overall productivity could only be beneficial. The rights of consumers and those working in the sector must be respected at all stages of this process.

4.9.6. Environmental aspects may pose particular practical difficulties when accession takes place. In its opinion on the application of the *acquis* to the candidate countries<sup>(4)</sup>, the Committee outlined the thinking which should underpin this process, based on the following points:

- strengthening the Community's pre-accession instruments in this area;
- establishing limited transitional periods for the application of the environmental *acquis*, in cases where major single market obstacles are not involved;
- requiring all new installations or projects which are fully or partly funded by Community loans or aid to apply current Community standards, even when these are not formally in force in Hungary;
- reinforcing administration and specialist measurement systems, so that environmental standards can be effectively applied.

Moreover, given Hungary's central position in relation to other applicant countries, the environmental policies adopted by these countries should also be taken into account, particularly with regard to the Danube and its tributaries.

4.9.7. The Committee welcomes Hungary's achievements on legislation governing consumers' rights, and hopes that representatives of consumer organisations will be actively involved in the process of preparing the relevant legislation and public education.

<sup>(1)</sup> Resolution adopted by the EU-Hungary Joint Consultative Committee, Brussels, 10 May 1999.

<sup>(2)</sup> Opinion on the implementation of the Helsinki declaration (CES 1133/98, OJ C 407, 28.12.1998) and Opinion on implementation of the structured social dialogue in the pan-European transport corridors (OJ C 329, 17.11.1999).

<sup>(3)</sup> DI 83/99 fin Joint Resolution on Transport policy and Hungary's accession to the EU.

<sup>(4)</sup> Opinion on the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee, the Committee of the Regions and the candidate countries in central and eastern Europe on accession strategies for environment: meeting the challenge of enlargement with the candidate countries in central and eastern Europe (COM(1998) 294 final), in OJ C 40, 15.2.1999.



## 5. The Accession Partnership and national programme to take up the *acquis communautaire*

5.1. The Accession Partnership created under Regulation 622/98 seeks to rank priorities for each country for adopting the *acquis*, by identifying such priorities and allocating the resources to implement them. On this basis, each applicant country has prepared a national programme for adopting the *acquis*.

5.2. The Hungarian programme set the following priorities:

- economic reform;
- reinforcing institutional and administrative capacity;
- internal market;
- justice and home affairs;
- the environment.

5.3. The ESC considers that Hungary is making remarkable progress in the overall application of the programme, although it feels that certain areas require special attention. Here, it would make the following recommendations:

5.3.1. Concerning regional development, Hungary not only displays significant disparities in income levels, but also lacks an administrative structure capable of implementing a regional cohesion policy. The creation of such a structure is an urgent and necessary task if Hungary wishes to benefit from ERDF resources from the moment of accession. Similarly, an action plan for the Roma community, boosting its integration and facilitating access to education for its children, could be an element in this policy.

5.3.2. The same applies to application of health and plant health standards, which is becoming a highly sensitive issue in the EU. Insufficient focus on these aspects could deprive Hungary's agri-foodstuffs sector of major potential opportunities on Community markets.

5.3.2.1. The ESC would draw special attention to the urgent need for Hungarian law to incorporate the provisions of the *acquis communautaire* to counter drugs trafficking, organised crime and money laundering.

5.3.3. Hungary has made considerable progress in rationalising its external trade relations, particularly those deriving from the WTO, in line with the *acquis*. However, at the end of

1988 it had still not ratified numerous multilateral agreements to which the EU is a signatory, or revoked others not compatible with the Community *acquis*. In the Committee's view, Hungary should in future be informed of new agreements to be signed by the EU so that the country can adopt them more quickly.

5.3.4. Hungary remains markedly out of step with the EU in customs affairs. This aspect merits urgent attention, not only because of the financial implications for both the Hungarian treasury and the Community budget, but also because Hungary shares borders with non-EU countries.

5.3.5. Although there has been an appreciable improvement in the design and implementation of the Phare programme for Hungary over the last year, there is still some way to go if the opportunities it offers are to be exploited to the full. The same is true of the ISPA and the future Sapard programme. The ESC recommends that the socio-occupational organisations be more actively involved in identifying priorities and selecting specific objectives.

## 6. Conclusions

6.1. The ESC believes that Hungary's overall preparation for EU accession is highly satisfactory, and that it should press ahead with its efforts even if, for purely internal reasons, the EU cannot set a detailed timetable for accession. In the ESC's view, cooperation between the EU institutions and the Hungarian government on a joint footing needs to be stepped up.

6.2. The ESC would, however, voice its concern at the breakdown of a constructive social dialogue between Hungary's government and social partners, and urges all sides to re-establish this dialogue. This would speed up the country's preparations for accession and increase its public acceptability.

6.3. In the future, the ESC should consider extending its remit by means of the Joint Consultative Committees (as it does with the Single Market Observatory) in order to detect practical obstacles in the applicant countries and suggest how to remove them.



6.4. The ESC wishes to harness the means and opportunities offered by the Treaty on European Union in order to assist in this process, either directly or through the EU-Hungary Joint Consultative Committee, by making available to the social

partners all its resources and capacity for influence and mediation with the Community institutions and the government and other institutions of Hungary.

Brussels, 1 March 2000.

*The President*  
*of the Economic and Social Committee*  
 Beatrice RANGONI MACHIAVELLI

#### APPENDIX

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

#### Summary table of the new system of social dialogue

Forums	Subject	Participants
<b>Macro level forums</b>		
<i>A. Labour</i>		
1. National Labour Council Sitting: as appropriate	Labour legislation applicable to the entire economy; negotiated agreement on the national minimum wage, on rearranging the working days of the week, and on measures concerning the authority of the social partners	Government representatives, associations of organisations representing national employers; confederations of organisations representing national employees
2. National ILO Council Sitting: as appropriate	Participating in preparing international labour agreements, managing continuous contact with the International Labour Organisation	Government representatives, associations of organisations representing national employers; confederations of organisations representing national employees
<i>B. Economic and social consultation Forums</i>		
1. Economic Council Sitting: at least twice a year	Consultation on strategic questions affecting the whole economy	Government representatives, national interest organisations representing economic chambers, the bank association, Stock Exchange Council, organisations representing foreign investors, etc.
2. European Integration Council Sitting: quarterly, then as required by the intensity of the preparations	Consultation on the general context of activity in technical working groups, and on the domestic and international efforts of representative organisations to promote integration	Government representatives, organisations representing national interest, economic chambers, NGOs (plus permanent guest and persons invited according to the current subject)
3. Social Council Sitting: as appropriate	Forum for preparing the most comprehensive decisions concerning the socially most exposed groups	Government representatives, representatives of maintaining and funding organisations of the central and regional institution system; NGOs, occupational representative organisations
4. National Regional Development Council Sitting: as appropriate	Consultation on the current issues of regional/territorial and infrastructure development	Government representatives, economic chambers, interest representation organisations, local governments' interest groups, NGOs

**Opinion of the Economic and Social Committee on the 'Proposal for a European Parliament and Council Regulation establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97'**

(2000/C 117/09)

On 12 November 1999 the Council decided to consult the Economic and Social Committee, under Article 152 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 9 February 2000. The rapporteur was Mr Evans.

At its 370th plenary session on 1 and 2 March 2000 (meeting of 2 March), the Economic and Social Committee adopted the following opinion by 64 votes to three, with three abstentions.

## 1. Introduction<sup>(1)</sup>

The new system for the identification and registration of bovine animals and regarding the labelling of beef and beef products is based on two proposals. The first<sup>(2)</sup> (99/0205 (COD)), which was considered by the Council and the Parliament in December 1999, simply extends the current voluntary arrangements in the light of the difficulties most Member States have encountered in fully implementing the required cattle identification system. The Council did not accept changes proposed by the Parliament but agreed that the effective date should be brought forward, and the Commission took action under Article 19 to extend the status quo until 1 September 2000. Therefore, on 21 December 1999, the Council adopted Regulation (EC) No 2772/1999 providing for general rules for a compulsory beef labelling system<sup>(3)</sup>.

1.1. The second proposal (99/0204 COD) is for the staged introduction of a compulsory system of identification, registration and labelling, together with provision for a parallel voluntary labelling system. Following the December 1999 decisions it must now come into effect before 1 September 2000.

1.2. The first stage of this would require all operators and organisations marketing fresh or frozen beef or veal to label it, from 1 September 2000 onwards, with:

- individual traceability codes which may be the identification number of the animal from which meat is derived or an identification number relating to a group of animals;
- region or Member State or third country of the slaughterhouse and de-boning plant;
- approval number of the slaughterhouse and de-boning plant;
- date of slaughter;
- category of animal (not defined in the proposal);
- ideal minimum maturation period.

1.3. The proposed second stage, to take effect from 1 January 2003, would introduce compulsory indication on the label of:

- Member State, or region or holding or third country of birth;
- Member State, or region or holding or third country of fattening;
- Member State, or region or holding or third country of slaughter;
- Member State, or region or holding or third country of de-boning.

1.4. The proposal would also allow some wider geographical definitions to be used e.g. where all the above take place in:

- one or more Member State(s) an indication of 'origin: EC';
- a third country and the EC an indication of 'origin: EC and non-EC';
- one or more third countries an indication of 'origin: non-EC'.

(1) Reference has been made to the following documents: COM(1999) 486 final — Report from the Commission to the European Parliament and the Council on the situation regarding the implementation of beef labelling systems in the different Member States; COM(1999) 487 final — proposals 99/0204 (COD) and 99/0205 (COD); and COM(1999) 487 final/2 — correcting Article 22A of 99/0204 (COD).

(2) On the agenda at the plenary session of 8/9 December 1999.

(3) OJ L 334, 28.12.1999, p. 1.

1.5. The proposal also includes general rules under which voluntary labelling systems, supervised by a competent authority and requiring verifiable controls over identification, may be operated alongside the compulsory arrangements. Such voluntary systems can apply both to EU and third country beef.

## 2. General comments

### 2.1. Legal issues

2.1.1. The legal basis for the proposed regulation is in dispute. Although a judgement is still pending in the case taken by the Commission and the European Parliament against the Council on the use of the former Article 43 of the Treaty as a basis for the existing Regulation (EC) No 820/97, the Commission believes that Article 152 of the Amsterdam Treaty is the correct basis.

2.1.2. The detailed rules for the application of Article 22, which enables the Commission to monitor and ensure enforcement of the Regulation, require the Commission in certain circumstances to seek the decision or the assistance of the Standing Veterinary Committee<sup>(1)</sup>.

### 2.2. Policy objectives

2.2.1. The Committee notes that the policy objectives of the proposed regulation are complex; there are no fewer than thirty-three considerations in the recital. The Committee believes the following to be the main themes:

- to strengthen consumer confidence in beef;
- to enable veterinary authorities to operate appropriate controls on both EU and imported animals for the purposes of combating animal diseases;
- to ensure that all beef offered for retail sale can be traced back to the processor, the abattoir, and ultimately the farm of origin;
- to facilitate rapid and accurate exchange of information between Member States, and co-operation with the Commission in monitoring and tracing bovine movements;
- to reinforce the administration of certain Community aid schemes;
- to avoid imposing excessive administrative burdens on producers;
- to give the maximum transparency in the market for beef.

2.2.2. The Committee's discussions have revealed serious doubts as to whether it is sensible to combine in a single Regulation legal and administrative measures which are intended to ensure sound veterinary and public health controls together with labelling provisions which are intended to help consumers. Thus, Title I consists of provisions which are aimed solely at ensuring traceability (eartagging, record keeping, passports, computer database); whereas Title II deals with labelling provisions (abattoir and de-boning hall approval numbers, category of animal, date of slaughter, ideal maturation period) which are in part intended as an aid to enforcement, but are also supposed to provide reassuring or useful information to consumers.

2.2.3. The Committee strongly takes the view that public health must be the priority concern and that the aim should be to implement the new arrangements as quickly as possible. In this connection the Committee notes that the Parliament was unwilling to extend the voluntary arrangements operating under Regulation 820/97 beyond September 2000. Given the practical problems which have arisen in some countries in the establishment of the database, it will require very determined efforts by the relevant authorities if the accelerated timetable is to be met.

2.2.4. The Committee is also concerned that the supply chain for beef from the farm to the consumer is long and is marked by differences of organisation and practice in different Member States. The Committee believes it to be of the highest importance that the controls specified in the proposals are implemented effectively at all points in the supply chain in all Member States.

2.2.5. The Commission has acknowledged that particular considerations arise over the treatment of beef or beef products imported from third countries where not all of the information required for EU beef may be available. The Commission proposes to deal with this situation by way of a derogation under which the description 'Non-EC' or 'Slaughtered in [name of third country]' may be used, in accordance with WTO rules. The administrative arrangements to ensure that such imported beef meets the necessary public health standards are not part of the proposed regulation.

2.2.6. Finally, the Committee is concerned about the plethora of differing provisions which apply in the labelling of food, and which are further complicated by this proposed legislation. The Committee calls on the Commission to take urgent action under its food safety programme in the interest of consumer safety to secure greater simplicity and higher standards of relevance in the labelling of food.

<sup>(1)</sup> Corrigendum COM(1999) 487 final/2 refers.

### 3. Specific comments

3.1. The main purpose of the Regulation is to serve the public good and public health. The Committee therefore calls for a re-examination of the current practice of passing on the costs to producers alone.

#### 3.2. Labelling issues

3.2.1. The Committee thinks that from the very start the origin of animals must be visible on the label for all consumers to see. However, the Commission is proposing that this should not be made compulsory until the start of stage two on 1 January 2003.

3.2.2. The Committee has looked very carefully into the question of indicating the approval number of the slaughterhouse or the de-boning plant on the label. Any accurate information is useful for the consumer, and consumer confidence will be improved by being able to see from the label that the product has been subject to a rigorous system of traceability. The Committee therefore supports this provision.

3.2.3. The Committee has also discussed very fully the proposal that the label should include an indication of the 'ideal minimum maturation period of the beef'. This provision, which concerns the cooking quality and taste of beef is a surprising inclusion on labels which are supposed to be concerned with safety and traceability. Maturation is a complex matter, not solely related to the age of the beef since slaughter. It is a matter of the circumstances at slaughter, the temperature and consistency of storage, and other factors relating to the handling of the product on its way from the slaughterhouse to the consumer. The indication of quality parameters (e.g. maturity of the beef) should in principle be purely on a voluntary basis.

3.2.4. Notwithstanding the content of Point 2.2.2, the Committee takes the view that consumer confidence will be enhanced by mentioning the category of origin of the meat.

#### 3.3. Coverage of the regulations

3.3.1. The Commission has acknowledged that practical problems arise over the application of the regulations to small retail butchers and agricultural producers marketing their products themselves. Although in practice many such businesses take their supplies from a single producer or wholesaler, many also buy in from a variety of sources and may sell retail cuts from different animals according to the customer's choice. Provided the identification and registration procedures are being properly implemented and policed, this practice involves no additional risk to the consumer, and it can be argued that smaller butchers, cutting in the shop to the requirements of the customer, should be exempted from the burden of labelling. But we do not in principle favour such exemption and we believe it should be possible for small butchers to

inform customers of the origin of beef by way of notices displayed in the shop.

3.3.2. Article 14 exempts minced beef, beef trimmings or cut beef from the full force of the labelling provisions, and after 1 January 2003, it will be required to carry an indication of region, country, EU, or Non-EU origin. The Committee considers in principle that this derogation is inconsistent with the public health objectives which are central to the proposed regulation. Traceability is clearly an important issue in the case of mixed-origin products. We have, however, been convinced that it is impractical at this stage to apply more stringent labelling requirements. We have to recognise that many of the animals used in this sector of the beef industry (which include dairy cows) may have been born before effective and verifiable identification systems had been put in place. We also have to recognise that the trade in these products is complex, and that they are of considerable importance to consumers and to the catering business. We therefore ask that the Commission give particular priority to solving these problems and come forward with further proposals well before January 2003.

#### 3.4. Screening for BSE

The Committee recommends that the regulation include an obligation to use an EU officially approved test to screen all slaughtered bovine animals for BSE once one becomes available. Research towards such a test should be accelerated.

### 4. Conclusion

4.1. The Committee strongly supports the objective of introducing more stringent public health controls in the production, processing and sale of beef for human consumption. We agree that the ability reliably to trace all beef back to the farm of origin from the point of purchase by the consumer is crucial to the achievement of this objective. We believe that the proposed regulation will achieve this aim. We also support the objective of strengthening the consumer's confidence in beef by making these controls transparent through a compulsory labelling system. We therefore approve these proposals subject to the detailed comments made above.

4.2. We also believe that both in the area of beef labelling, and the matter of food labelling more generally, there is much more to be done before we would regard the arrangements as providing the consumer with consistently useful and reliable information. We have indicated above some specific matters on which we think further urgent work must be done with regard to beef. On the wider question of food labelling we would welcome advice from the Commission about the state of work on the codification of the directive referred to in the Consumer Policy Action Plan 1999-2001 of December 1998.

4.3. We ask the Commission to undertake all necessary measures to avoid further prolongation of this new transitional regime. Such a prolongation would result in losing consumer confidence in beef meat and in the EU mechanisms. This means that both the European Parliament and the Council should follow the existing rapid consultation procedures to enable them to complete their work well in time.

4.4. In parallel, we would like to invite the Commission to set up, immediately, an appropriate monitoring network regarding the implementation of the current provisions of Title I of Regulation (EC) No. 820/97 (identification and registration of bovine animals), so to assure that by 31 August

2000 the data needed for the introduction of the 'first stage' of the labelling system are available for all bovine animals. The same measures should be taken for the introduction of the 'second stage', too. To this end, the appropriate Commission services (i.e. FVO in Dublin) could establish an inspection programme all over the EU to make sure that all Member States have put in place the current provisions on identification and registration of bovine animals.

4.4.1. Additionally, we would like to suggest to the Commission that, prior to 31 August 2000, it should produce an interim report reflecting its findings regarding compliance with the current legislation (I & R) in all Member States.

Brussels, 2 March 2000.

*The President  
of the Economic and Social Committee*  
Beatrice RANGONI MACHIAVELLI

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#### APPENDIX

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

The following amendment, which received more than a quarter of the votes cast, was defeated in the course of the debate.

#### **Point 3.2.2 last sentence**

Reword as follows:

'However, the Committee takes the view that only the approval number for the last stage in the production chain should be indicated.'

#### *Reason*

The problem is that two approval numbers would otherwise normally have to be indicated: for both the slaughterhouse and the cutting plant. Usually cutting plants buy carcasses from several slaughterhouses in order to obtain sufficient quantities of the desired quality. Should the slaughterhouse's approval number need to be indicated, the cutting plant would have to keep meat from each slaughterhouse separate, which would result in a large number of small batches. Small slaughterhouses will then be pushed out of the market because their batches will be too small whereas cutting plants prefer a few, large batches.

#### *Result of the vote*

For: 15, against: 37, abstentions: 6.

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**Opinion of the Economic and Social Committee on the 'Proposal for a Council Regulation amending Regulation (EEC) No 3448/93 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products'**

(2000/C 117/10)

On 22 February 2000 the Council decided to consult the Economic and Social Committee, under Articles 37 and 262 of the Treaty establishing the European Economic Community, on the above-mentioned proposal.

The Economic and Social Committee decided to appoint Mr Espuny Moyano as rapporteur-general to prepare its work on the subject.

At its 370th plenary session on 1 and 2 March 2000 (meeting of 2 March), the Economic and Social Committee adopted the following opinion by 61 votes to one with two abstentions.

**1. Summary of the proposal**

1.1. The proposal to amend Regulation (EEC) No 3448/93 follows on from the agreement on agriculture reached in the Uruguay Round which limited the total amount of payments in the form of refunds.

1.2. The ceiling is EUR 475 million for 2000, falling to EUR 415 in 2001.

1.3. Given these ceilings, provision is made for the present inward processing arrangements (IPA) to continue so as to ensure that EU industry remains competitive.

1.4. So that the amount allocated to refunds is used in the best possible way, a management committee on 'horizontal questions concerning trade in agricultural products not listed in Annex I' is to be set up.

**2. General comments**

2.1. The Committee welcomes the proposal and agrees that a management committee should be set up.

2.2. The Committee is concerned about the competition to Community agricultural producers from third countries and about supplies of raw materials to the agri-foodstuffs industry at international prices, necessary for it to remain competitive and retain its place in world trade.

**3. Specific comments**

3.1. The Committee considers that SMEs may find themselves disadvantaged not only in finding it more difficult to obtain information and deal with administrative procedures under these trade arrangements, but also because the decrease and concentration in refunds may prevent them from gaining access to both the refund and inward processing arrangements.

3.2. The Committee urges that its views be taken into consideration and that particular attention be paid to SMEs to avoid discrimination against them.

Brussels, 2 March 2000.

*The President*  
*of the Economic and Social Committee*  
Beatrice RANGONI MACHIAVELLI

## Opinion of the Economic and Social Committee on 'The Social Economy and the Single Market'

(2000/C 117/11)

On 25 February 1999, the Economic and Social Committee, acting under the third paragraph of Rule 23 of its Rules of Procedure, decided to draw up an Opinion on 'The Social Economy and the Single Market'.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 15 February 2000. The rapporteur was Mr Olsson.

At its 370th plenary session on 1 and 2 March 2000 (meeting of 2 March), the Economic and Social Committee adopted the following opinion by 105 votes in favour, 3 against and 16 abstentions.

### 1. Introduction

1.1. The purpose of this own-initiative opinion is to focus attention on the social economy at European level, and to put forward practical proposals for the EU institutions, the Member States and the sector itself, in order to help it boost its contribution to social welfare, employment, sustainable growth and social cohesion.

1.2. The Committee has adopted several opinions on the social economy<sup>(1)</sup>. As early as 1986, the Committee published a comprehensive survey of cooperatives, associations and mutual societies, which subsequently came to be regarded as a European reference work<sup>(2)</sup>.

### 2. The social economy's role in society

2.1. In preparing the Opinion a Hearing was organised in Brussels on 12 October 1999 in which the role of the social economy in society was highlighted.

2.2. Social economy activities start as a means of satisfying the needs of members and users which have been left either ignored or inadequately fulfilled by the market or the State. The social economy gives people the opportunity to organize their production and consumption patterns through independent, democratic forms of cooperation. By targeting people's outstanding or inadequately met needs, the social economy can come up with innovative, forward-looking solutions.

2.3. The social economy is very diverse and can be found in all sectors of economic life. Social economy organisations are active in a competitive market including both private and public players. Many of them, however, provide welfare services, social protection, and labour market initiatives, often acting in conjunction with the public sector.

2.4. The welfare State is confronted with challenges. Unemployment in Europe remains high and social exclusion is on the increase. Social protection systems are being weakened by continued low growth and an ageing population. Public sector responsibility for some welfare functions is declining. In any event, the public sector is unable to keep up with growth in demand, and there is a shift towards privately organized provision and financing, while preserving the fundamental elements of social justice on which such functions were built.

2.5. The social economy is, in some countries, an important provider of services in healthcare, social housing, community care, environment, efficient use of energy resources, education and training, and it also sometimes arranges funding for these services. It is thus an element of the European welfare model and plays a role in enabling it to reach its objectives. Concrete support to develop the sector should therefore aim to guarantee high quality services to European citizens.

2.6. The social economy is present at all levels, both national and European, but its roots are local. It plays an important role in achieving social cohesion. The local social economy works alongside the public sector to provide society's infrastructure. At the same time, social economy firms often play an important role in rural and urban development. Notwithstanding its local impact, the social economy is sometimes organised in big units with national or even transnational activities. By forging partnerships with the public sector, private enterprise and trades unions, the social economy can contribute to the strengthening of local business competitiveness in a global environment. For example, appropriate

<sup>(1)</sup> Business in the 'Economie Sociale' sector. OJ C 332, 31.12.1990, p. 81; Opinion on SEC(89) 2187, Multi-annual programme (1994-96) of work for cooperatives, mutual societies, associations and foundations in the Community, OJ C 388, 31.12.1994, p. 22; Opinion on COM(93) 650.

<sup>(2)</sup> The Cooperative, mutual and non-profit sector and its organisations in the European Community. Published by the ESC.

partnerships between social economy organisations working in the area of occupational integration and private enterprise can offer a development model based on integration into working life by means of the economic system, to combat social exclusion and meet the outstanding needs of the workforce.

2.7. The social economy can provide a blueprint for greater competitiveness, founded on cooperation between people and enterprises, and on its ability to satisfy people's needs and develop human capital. Since it focuses on people-centred relations, the social economy will be stimulated by the shift towards a service society and new forms of work.

2.8. The social economy can tap emerging sources of employment, particularly in the sectors of social services, culture, leisure, education and environment, not only through labour intensive production but also through the use of new technology. It can thereby also make a contribution to the social integration of vulnerable groups.

### 3. The 'social economy' concept

3.1. Even if not labelled as 'social economy' in all Member States, comparable activities sharing the same features exist everywhere. They have developed over the centuries in different organizational forms and under different names according to the national economic, social and legal circumstances. These differences explain the absence of and the difficulties in finding a common definition at EU level.

3.2. The expression 'social economy' is, however, gaining ground, and is used, *inter alia* in the Employment Guidelines<sup>(1)</sup> and in the new Regulation on the European Social Fund<sup>(2)</sup>.

3.3. In order to overcome the problem of definition, the social economy is often described as being composed of 'four families': cooperatives, mutual societies, associations and foundations, which in fact are organizational and/or legal forms.

3.3.1. In line with this, the European Commission established a Consultative Committee for Cooperatives, Mutual Societies, Associations and Foundations in 1998 (CMAF)<sup>(3)</sup>.

3.3.2. However, not all organizations that are included within the four families wish to be considered part of the 'social economy'. At the same time, other players identify themselves with the social economy but do not meet the specific legal requirements of those four families that differ from one Member State to the other.

3.4. The lack of clarity surrounding the expression of 'social economy' is not only due to different ways of interpretation, it is also the result of linguistic confusion. It is clear from the expression that economic activity is involved. The adjective 'social' should be understood to mean both mutual self-help and 'public spiritedness'.

3.5. During the last few years the socio-economic environment has changed. New phenomena and new economic players are emerging to meet new needs and demands in a flexible, innovative and efficient way. Old activities have to be adapted.

3.6. Since an activity within the social economy may be linked to certain rights and advantages, the Committee believes that it is important — even if difficult — for the Commission to come up with a definition that is workable, accepted and understood by the public and the Member States.

3.7. Against this background, the Committee questions whether the legal and organizational ground for defining the social economy is not outdated notwithstanding the fact that most social economy activities will be organized in the above-mentioned forms.

3.8. The Committee suggests that a definition should be based upon the main features that distinguish the social economy from classic private enterprise and the public sector. Focus should be given to the people-centred objectives and activities.

3.8.1. This means that the aim of the social economy should be to work for its members, users and/or society in order to meet well defined needs of public interest.

3.8.2. Membership of a social economy body must be open to all who meet the criteria and accept the conditions.

<sup>(1)</sup> Point 12 of the 1999 Employment Guidelines, Council Decision of 22.2.1999. The same point can be found in the Commission's proposal for the Employment Guidelines from the year 2000.

<sup>(2)</sup> Regulation on the European Social Fund, Article 3,1(d) OJ L 161, 26.6.1999.

<sup>(3)</sup> CMAF recently published a paper 'Social Economy in the Development of the European Union' which states its view on common principles of the social economy.

3.8.3. People's needs and commitments are central, as are the organizational requirements of democratic control and independent management.

3.8.4. The social economy firms are 'not-for-profit' organizations — i.e. profit is not the primary objective —, but nevertheless they must be economically efficient so that they can use financial surpluses to promote their objectives.

#### 4. Significance of the social economy

4.1. The social economy firms and organizations have millions of members. While some of these firms and organizations are of substantial size, most of them are very small. Many of the large organizations are long-established, but the majority started up recently. Associations, small cooperatives and other new social economy organizations are growing fast.

4.2. In order to get an even better grasp of the significance of the social economy, the Committee feels that both the Member States and the Commission should provide more comprehensive and clearly defined statistics for the sector, using common, standardised criteria and models.

4.3. According to some studies, the social economy accounts for a substantial part of EU economy and employment<sup>(1)</sup>.

#### 5. The social economy — a different type of entrepreneurial initiative

5.1. The features of the social economy's entrepreneurial initiative distinguishes it from other types of economic activity. It thus contributes to the necessary diversity of economic life.

5.2. New types of organizations and companies are springing up which adopt social economy principles. These include multi-stakeholder cooperatives, enterprises with social objectives, workforce insertion agencies, intermediate labour market enterprises, local community organizations, etc.

5.2.1. At the same time, traditional social economy firms sometimes need to compete in a market situation and/or overcome some legal obstacles to their growth by converting to the legal form of a private firm where profit is the primary objective.

<sup>(1)</sup> The social economy employs some 6 %-7 % of the total EU workforce (circa 9 million jobs) according to a recent study made by Ciriec, ('Les entreprises et organisations du troisième système: Un enjeu stratégique pour l'emploi', Liège 1999). In addition, voluntary work, particularly in the associative sector, could be estimated at the equivalent of a few million jobs.

5.3. Within social economy firms social efficiency must go hand in hand with economic efficiency, without depriving them of their special features or undermining their special nature and objectives.

5.4. Previous Committee opinions have expressed support for the promotion of an enterprise culture and a climate which is conducive to business — including social economy businesses<sup>(2)</sup>.

5.5. There are a number of obstacles to the growth of the social economy: demand for the goods and services it produces is too weak in terms of purchasing power; the skills of workers and management must be improved; and the lack of capital is plain to see in some sectors (though not all). In addition, legislation does not always take account of the specific nature of the social economy.

5.6. The social economy is a type of enterprise which often appeals to groups that traditionally would not dare to set up an enterprise. Collective enterprise enables them to pool resources and share risks. The security thus provided is more conducive to risk-taking.

5.7. The social economy combines voluntary and paid work. The voluntary work is multi-faceted. It can include the time elected representatives devote to carrying out an activity, or general work carried out by volunteers in an association.

5.7.1. The Committee believes that voluntary work provides a channel for citizens' active participation in society and is increasing in certain fields. It often exists alongside salaried work and can engender employment growth, particularly in sectors where demand is low owing to lack of resources. However, in the Committee's view it cannot replace salaried work, which must be subject to normal labour market conditions.

5.8. At the same time, the social economy needs to improve the skills of its workforce — both salaried and voluntary — so that it can provide quality services which can cope with competition.

5.8.1. Given the specific and multi-functional character of the social economy firm, there should be ample scope for management and workers to set up a 'learning' organisation in order to promote adaptability through flexibility and new work organisation patterns and to find ways to make work compatible with family life.

<sup>(2)</sup> Cf. *inter alia* Fostering entrepreneurship in Europe: priorities for the future, Opinion on COM(1998) 222, OJ C 235, 27.7.1998, p. 69.

## 6. Employment

6.1. The social economy as a whole rejects any attempt to turn it into a labour market policy instrument. Most social economy activities — like business activities in general — do not focus on employment, but have different primary objectives. However, new jobs are an important by-product of growth in the sector.

6.2. A large number of social economy players focus however on employment/integration for the unemployed, for people with disabilities and other groups which are — in labour market terms — vulnerable. The social economy can motivate people, giving them self-respect to run their own business, or to find a job in the traditional labour market. Many social economy players also have, for reasons of solidarity, heeded the calls made by political and social bodies to play a part in employment policy.

6.3. These organizations, which are often new to the social economy, thus play an important role in helping people step up from the secondary to the primary labour market. They differ from country to country, go under different names, and their structure and organization are diverse. Many job schemes run by the trades unions or private enterprises rely on social economy players.

6.4. Among the many examples of labour market policy measures which have boosted employment in the social economy, some may be mentioned. The French employment initiative 'Contrat Emploi Solidarité' (CES) has provided 200 000 jobs in the associative sector, which, moreover, has recruited around 250 000 young people until now via the special programme to combat youth unemployment. In Italy today the social cooperatives employ more than 100 000 persons. In Belgium, a programme to absorb unemployment helped create 40 000 jobs. In Ireland, the Community Employment measure has created just over 30 000 new jobs in the associative sector and in local community organizations. In Spain, the Mondragon Group and Once aim to provide jobs for 37 000 people.

6.5. The social economy's positive effect on employment has been taken on board in the EU employment guidelines, which emphasize its role in creating new jobs at local level in particular, and in tapping into new employment sources<sup>(1)</sup>.

6.6. The Committee notes that as a consequence of the employment guidelines, the social economy is increasingly being asked to play a part in the national action plans for employment. Countries such as Italy, Spain, France, Ireland and Belgium are good examples of this<sup>(2)</sup>.

6.7. In order to achieve effective participation in national labour market policy, the Committee would stress the need to consult social economy representatives when drafting the national action plans, and calls on social economy organizations to present their governments with concrete proposals for the year 2000 action plan.

6.8. Given that in a number of countries mutual societies are a major plank in the social protection system, the Committee believes they could play an important role in promoting employment, new enterprise and employability. There are already examples of this<sup>(3)</sup>. Mutual social protection societies could also be involved in organizing services for the ageing population, thus creating new job opportunities in cooperation with other sections of the social economy.

6.9. If new employment opportunities are to be created, the Committee highlights the need for support structures, inclusion in national economic and labour market policy, and support from the Structural Funds<sup>(4)</sup>.

## 7. The Structural Funds

7.1. Regarding the implementation of the EU's new Structural Funds programme for 2000-2006, the Commission guidelines state that the social economy's potential for creating new jobs has not been sufficiently exploited. The European Social Funds Regulation states explicitly that funding may be provided for social economy activities.

7.2. The Committee assumes the Member States and the Commission will incorporate the guidelines in the actual programmes. The role played by the social economy in local development, integrating vulnerable groups and fostering entrepreneurship should be highlighted in the priorities to be implemented. At the same time, the Committee calls on the Member States to ensure representation of the social economy in the partnership which must be set up according to the Structural Funds Regulation.

<sup>(1)</sup> Point 12 of the 1999 Employment Guidelines, Council Decision of 22.2.1999. This role was also underlined in the 'Third system and employment' programme capitalisation committee report.

<sup>(2)</sup> Joint Employment Report 1999, part 1, p. 59, and part 2, reports on various countries. Published by the EU Commission.

<sup>(3)</sup> 'The contribution of mutual and bilateral social protection to employment and employability', KOOPi Sweden 1998.

<sup>(4)</sup> COM(1999) 167, Community policies in support of employment, point 2, Regional and Local support.



## 8. The single market

### 8.1. Access to finance

8.1.1. Several new, alternative, social economy-related banks and credit institutions are springing up alongside the traditional cooperative banks in order to provide capital to new initiatives. Small loans, credit guarantees and special risk capital have proved effective in encouraging new enterprise in the social economy<sup>(1)</sup>. Funding is often provided by people who want to invest in the social economy.

8.1.2. However, the Committee recognizes that access to finance still remains one of the most important hurdles for players in the social economy sector — especially for the very small enterprises.

8.1.3. The Committee is positive to initiatives that enable these new social economy financial instruments to progress and fulfil their important tasks. The Commission and the Member States should examine this matter as well as the possibility of other initiatives to provide capital for the emerging social economy.

### 8.2. Social protection

8.2.1. In some countries mutual societies perform an important role in social protection. Their work is based on solidarity between stronger and weaker groups, and they do not discriminate on grounds of risk.

8.2.2. The Committee believes that social protection mutual societies play an important role in national social security systems, and calls on the Commission to ensure that this general interest role is not undermined by unfair competition. Furthermore, all players must respect the clearly-defined obligations connected with service provision.

### 8.3. The rules of competition, public procurement and taxation

8.3.1. Due to its special features, the social economy sector needs tailor-made solutions as far as taxation, public procurement and competition rules are concerned, for example:

- Social economy organizations are not allowed to establish activities in certain branches in some Member States (e.g. petrol distribution in Spain).

- Public procurement rules are not always compatible with local employment initiatives and the social economy's provision of welfare services.

- Public procurement does not always contain requirements that affect the quality of services and is often limited to the lowest economic bid.

- Taxation benefits due to the fact that the social economy differs from traditional economic sectors.

8.3.2. For this very reason, the Committee believes that applying specific solutions makes it possible to achieve a level playing field between firms of the social economy and private enterprises.

8.3.3. The Committee suggests that the Commission should look into these matters in order to present guidelines stating criteria for supporting the social economy. The creation of firms in the social economy sector must not upset the structure of existing markets by providing unfair competition for private-sector firms, working under the same conditions and selling goods and services below market prices.

8.3.4. The Committee believes that these criteria should be clear, transparent and based upon the fundamental features of the social economy. Nor should the rules produce negative social fall-out for disadvantaged groups.

8.3.5. When elaborating the guidelines, the social economy organizations should be consulted.

### 8.4. European cooperation models

8.4.1. There is an increasing need to set up European networks in order to be competitive in the Internal Market. The Committee has already called for cooperatives, and mutual societies and associations to be allowed to develop cross-border European cooperatives, European mutual societies and European associations<sup>(2)</sup>. The necessary European Statutes are still missing. It should also be possible for individuals and small businesses to establish such European legal forms, should they wish to be involved in cross-border cooperation in order to strengthen their competitiveness.

8.4.2. The Committee has already expressed its opinion that, in order to provide for a swift Council Decision, these legal and organizational forms should be treated separately from the European Company Statute<sup>(3)</sup>. Clearly, the proposal for a Directive on worker participation must be adopted simultaneously.

<sup>(1)</sup> In 'Financial Instruments of the Social Economy in Europe and their impact on job creation', published by Inaise, some of these instruments are described. Another example are the Italian mutual funds to develop new cooperatives.

<sup>(2)</sup> OJ C 233, 31.8.1993, p. 42.

<sup>(3)</sup> Information and Consultation of Workers, OJ C 212, 22.7.1996, p. 36. Opinion on COM(95) 547, 29.5.1996, point 14.

8.4.3. The Committee would renew this call, whilst emphasising that the new regulations must be sufficiently flexible as to allow cooperation between organizations and companies from different sections of the social economy. Such flexibility is particularly necessary to take account of the differences in national legislation. French legislation on the 'Union d'Economie Sociale' and Italian legislation on consortia could provide a blueprint here.

#### 8.5. *EU enlargement*

8.5.1. In the run-up to EU enlargement, the Committee would call on the Commission to ensure that accession negotiations take account of the role of the social economy in the applicant countries, both in terms of single market legislation and other opportunities for full participation in European cooperation.

### 9. **Commission support programmes**

9.1. The Committee notes the fact that the programme for cooperatives, mutual societies, associations and foundations, proposed by the Commission in 1993, has not been implemented. A decision on this required unanimous approval by the Member States, which proved impossible to achieve. One argument against the programme was that funding was insufficient (EUR 5.6 million over three years).

9.2. The Commission is currently preparing a programme to promote enterprise. The programme framework should also include promotion of the social economy, and introduce particular funding for social economy-specific issues such as training for members, dissemination of best practice and research.

9.3. The Committee assumes the resources earmarked for social economy organizations and companies will be more substantial than those contemplated in the previous programme proposal. But, even so, eligibility criteria should be clear and transparent, and should relate to the particular features of the social economy in order to support emerging new and/or innovative initiatives.

9.4. In addition, the Committee takes a positive view of the proposal presented by Commissioner Diamantopoulou to launch pilot projects linking social economy organizations and other social players to achieve good practice of such partnerships.

9.5. As regards other EU programmes, such as the 5th RTD framework programme and EU aid programmes, special initiatives should be introduced to make it easier for the social economy to access the support available.

9.6. The Committee believes that voluntary and unpaid work should count as co-funding in social economy-run EU projects.

### 10. **White Papers on Cooperatives and Mutual Societies**

10.1. The Committee is disappointed that the Commission according to its work programme, will not adopt the two White Papers initially foreseen for this year, one on cooperatives and the other on mutual societies. The Committee would warmly support such an initiative which, however, must be given the necessary resources if it is to succeed. It will make it possible to assess the situation in these sectors and come up with some recommendations aimed at stimulating the development of cooperatives and mutual societies in the EU.

### 11. **Commission organization**

11.1. Social economy organisations and firms are in close contact with almost every Directorate-General. The Directorate-General for Enterprise which is planned to have responsibility for cooperatives, mutuals and new forms of entrepreneurship, and the Directorate-General for Employment and Social Affairs, which would have responsibility for social economy and local development, are the main focus of attention. To distinguish between organisations in this way would trigger the break-up of the unity of the social economy sector. It is important urgently to find a satisfactory, coordinated response to overall organisational matters and that social economy players receive assistance. At the same time the Committee wonders what the Commission means by 'new forms of entrepreneurship'.

### 12. **What can the social economy do?**

12.1. At the Hearing in October, several cases of good practice were presented. The Committee feels that the dissemination of good practice is a key element in achieving progress for the social economy.

12.2. Some examples are:

- setting up coordination agencies at national and European level;
- creating information networks;
- cooperation with business in general and with the trades unions;
- concluding partnerships with regional and local authorities;

- working out ways of assessing both economic and social effectiveness, by means, for example, of relevant social auditing methods and systems of improved governance;
- setting up strategic development centres;
- developing benchmarking systems;
- making a concerted effort to raise the profile of voluntary enterprise, by getting large social economy companies and organizations to draw up 'Managing Change Reports' <sup>(1)</sup>;
- providing examples of best practice in skills development, organization of work and equal opportunities;

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<sup>(1)</sup> ESC Opinion on 'Managing Change' (Gyllenhammar Report), OJ C 258, 10.9.1999, p. 1.

- harnessing available EU programmes particularly those for human resource development.

### 13. Conclusions

13.1. The social economy is on one hand an important part of economic life and at the same time part of organised civil society. This own initiative opinion is the Committee's contribution to the debate on the social economy at European and national level, its definition and its role both in general and in relation to the Internal Market.

13.2. The Committee recommends that the Commission, the European Parliament and the Member States follow up this opinion by drawing up a strategy to fully integrate the social economy into the creation of welfare activities and the promotion of new entrepreneurial initiatives in Europe.

Brussels, 2 March 2000.

*The President  
of the Economic and Social Committee*

Beatrice RANGONI MACHIAVELLI

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### APPENDIX

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

The following amendment, which obtained more than one quarter of the votes cast, was rejected during the discussions.

#### Point 8.4.2

Delete the last sentence.

#### Reason

The proposal for a directive on worker participation is not acceptable in its present form to SMEs in the commercial sector. It creates obligations that are too onerous for small firms. Also, the two things are independent.

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**Opinion of the Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending for the 22nd time Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (phthalates) and amending Council Directive 88/378/EEC on the approximation of the laws of the Member States concerning the safety of toys'**

(2000/C 117/12)

On 29 February 2000, the Council decided to consult the Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 15 February 2000. The rapporteur was Mrs Williams.

At its 370th plenary session on 1 and 2 March 2000 (meeting of 1 March), the Economic and Social Committee adopted the following opinion by 27 votes to twenty-one, with eight abstentions.

## 1. Introduction

1.1. First and foremost, the present proposal relates to the high level of protection of health and safety of consumers endorsed in the EU Treaty and continuing now in the Amsterdam Treaty under Article 153. The Commission proposes to ban the use of six toxic phthalates in certain products for babies and small children — the weakest and most vulnerable consumers. It sets out a twenty-second amendment to the existing Directive on dangerous substances<sup>(1)</sup> and adds a separate amendment to the Directive on toy safety<sup>(2)</sup>.

1.2. Nevertheless, the proposal has wide-ranging general implications. It is concerned with the following major issues or subjects:

1.2.1. the harmonisation of practices and the establishment of uniform rules in both the Internal Market and the 'candidate' countries;

1.2.2. the interaction with other Directives, such as the use of emergency procedures outlined in Article 9 of the General Product Safety Directive (GPSD)<sup>(3)</sup>;

1.2.3. the validity of test methods used to ascertain the level of release of phthalates;

1.2.4. pressures from environmental groups on a subject bound to arouse emotion as well as practical considerations;

1.2.5. the growing emphasis on risk assessment procedures and the use of the precautionary principle.

1.2.5.1. The relevance of the precautionary principle in particular must be highlighted. This is a relatively new procedure described in a recent Communication from the Commission<sup>(4)</sup>, and this is only the third time it has been invoked. The procedure enables the Commission to take preventive action where evidence is 'insufficient, inconclusive or uncertain' but where failure to act would result in excessive risk to public health or the environment (as in the case of dioxins in Belgian food). The central principle is that when there is a potential threat, risk assessment studies should be carried out; nevertheless, the results do not have to be conclusive for action to be taken. 'The absence of scientific proof ... should not be used to justify inaction.'

## 2. Background information

### 2.1. What are phthalates?

Six phthalates, itemised in an Annex, are the subject of the present proposal. They are long established chemicals which are added to hard plastic (like polyvinyl chloride — PVC) to soften it. The softened plastic can then be used to make products for babies and small children under thirty-six months such as teething rings, dummies, rattles and some toys such as bathtime ducks. The commonest phthalate in use for products such as teething has been di-'isononyl' phthalate (DINP). Some phthalates can also occur naturally in foods such as bananas.

### 2.2. What are the problems with phthalates?

Phthalates are not bound into the PVC and can over time migrate or leach. Tests on rats show that phthalates can cause hormonal disturbances as well as cancer with consequent damage to liver, kidneys and testicles. The particular risk is to babies and small children who chew and suck over prolonged

<sup>(1)</sup> Directive 76/769/EEC, OJ L 262, 27.9.1976, p. 201.

<sup>(2)</sup> Directive 88/378/EEC, OJ L 187, 16.7.1988, p. 1.

<sup>(3)</sup> Directive 92/59/EEC, OJ L 228, 11.8.1992, p. 24.

<sup>(4)</sup> COM(2000) 1 final of 2.2.2000.

periods. Their chewing action can break down the plastic which accelerates the release of phthalates and its consequent migration into their saliva. Moreover, an Acceptable Daily Intake (ADI) tolerable in an adult is not tolerable in a baby because of its lower body weight. Phthalates may be cumulative and can be absorbed by the baby from other sources e.g. through breast milk.

2.2.1. Therefore there has been a strong call from certain Member States for a ban on phthalates in products for infants, which resulted in a Recommendation in July 1998<sup>(1)</sup> (rather than the emergency ban Commissioner Bonino would have wished). There has also been pressure from environmental groups for a ban as part of a broader campaign for the removal of all PVC products. The Scientific Committee on Toxicology, Ecotoxicology and the Environment produced its Opinion in Autumn 1999.

2.2.2. The Commission, through the emergency procedures in the GPSD, has received the agreement of Member States to a temporary and interim ban of the six phthalates on the grounds that they pose a serious risk to child health. This measure came into effect on 19 December 1999.

2.2.3. This present proposal deals with the amendment of legislation in the longer term.

### 3. General Comments: the Committee's view

3.1. First, the Committee supports the Commission's immediate ban on phthalates in certain childcare products and accordingly Article 1 of the proposed Directive.

3.1.1. Since the ban is an interim and temporary measure to be reviewed on 8 March, the Committee asks what future transitional procedures are to be followed.

3.1.2. The Committee realises that the Commission had two choices: either to impose a ban or to rely on stringent tests for maximum release limits against which checks could be instituted. Since such test methods for phthalates are still uncertain, unreliable and unable to be reproduced in view of the difficulty in simulating the sucking and chewing action of a baby, the Committee accepts the Commission's decision invoking the Precautionary Principle. Moreover, it points out that alternatives which may be developed could present new doubts and uncertainties and accordingly calls for much further research.

3.2. Secondly, regarding future action, the Committee questions the Commission's procedure (outlined in Article 2) for dealing with products which can be put in the mouth although not intended for that purpose. The Commission intends to deal with the risks inherent in such items — predominantly toys where the length of sucking/chewing time is less — via labelling which will provide warnings to parents and other carers of small children.

3.2.1. The Committee emphasises the practical difficulties in formulating any form of cautionary words which can reasonably cover the huge range of children's products involved, particularly if such words have to appear on the product as well as on the packaging in several languages.

### 4. Specific comments

#### 4.1. Article 1

The Committee accepts this Article as the only possibility under present circumstances with the general reservations already expressed. There are the following additional points to be raised:

4.1.1. The Committee regrets that the final amendment to the legislation on the marketing of dangerous products can only be applied several years from now 'for procedural reasons' but notes that the bridging mechanisms to be put in place must continue to ensure the safety of babies and young children.

4.1.2. The Committee points out the particular problem of controlling the supply of items handed down in families and used by children in different age groups. It also notes the problem of childcare products sold second hand (e.g. in charity shops).

4.1.3. The Committee stresses the importance of enforcement (with Europe-wide co-ordination) by responsible authorities, bearing in mind the problems of those countries where there is not always a single authority.

4.1.4. The Committee emphasises the need for constant and effective monitoring of the ban, with special market surveillance for products imported from third and third-world countries.

4.1.5. The Committee stresses the need for effective communication with parents and all those responsible for childcare on the subject of product safety in general and on phthalates in particular, with special consideration given to the extension of Helpline telephone numbers provided on packaging by some manufacturers. It also calls for sensitive, non-authoritarian education, starting at an early age, relating to the care and behaviour of babies and small children.

<sup>(1)</sup> Recommendation 98/485/EC, OJ L 217, 5.8.1998, p. 35.



#### 4.2. Article 2

The Committee points out that the severity of these warnings is such that they are effectively a ban. The suggested wording of such labels, moreover, is difficult and fails to communicate adequately.

Nevertheless, if such labelling is finally accepted as an appropriate measure, then the Committee makes the following comments.

4.2.1. It is not enough for any warning to be legible and indelible. It must also be understandable.

4.2.2. The Committee questions the practicality — both in design and manufacture — of applying permanent warning labels to small items intended for children, particularly if a range of languages is involved.

4.3. Since the risk inherent in sucking or chewing a toy intermittently is slight, then the Committee recommends for the time being that the proposed cautionary labelling on actual

products should be dropped in the light of the difficulties it would cause. Warnings should appear on packaging where size permits. The precautionary principle invoked states that measures based on the precautionary principle must be proportionate to the risk which is to be limited or eliminated.

#### 5. Conclusion

5.1. The Committee reiterates the over-riding importance of safety, particularly where children are concerned, and supports the Commission's efforts in introducing the current ban. It remains concerned, however, that the validity of present test methods to ascertain the level of release of phthalates is still uncertain, and that alternative materials provide new doubts. It accordingly calls for much further research.

5.2. The Committee accepts that the Commission in Article 2 is indicating its belief in parents' right to information by providing stringent warnings on both packaging and actual childcare items. If the Commission persists in enforcing these warnings, both their language and practicality of communication must be taken into account.

Brussels, 1 March 2000.

*The President*  
*of the Economic and Social Committee*  
Beatrice RANGONI MACHIAVELLI

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## **Opinion of the Economic and Social Committee on 'Employment, Economic Reform and Social Cohesion — Towards a Europe of Innovation and Knowledge'**

(2000/C 117/13)

On 23 September 1999 the Economic and Social Committee decided, in accordance with Rules 11(4), 19(1) and 23(3) of its Rules of Procedure, to draw up an Opinion on 'Employment, Economic Reform and Social Cohesion — Towards a Europe of Innovation and Knowledge'.

The Subcommittee 'Employment, Economic Reform and Social Cohesion', which was responsible for the preparatory work, adopted its opinion on 9 February 2000. The rapporteur was Mr Morgan, the co-rapporteur Ms Engelen-Kefer.

At its 370th plenary session on 1 and 2 March 2000 (meeting of 2 March), the Economic and Social Committee adopted the following opinion by 114 votes in favour with 5 abstentions.

### **1. Introduction**

1.1. On 16 October 1999 the Finnish and Portuguese presidencies invited contributions to the discussion at the extraordinary European Council to be held in Lisbon on 23 and 24 March 2000 on the subject 'Employment, economic reform and social cohesion — Towards a Europe of innovation and knowledge'. The ESC is delighted to have been asked to contribute to this Summit and, in particular, to have been invited together with the Parliament, the Commission, the European Central Bank and the social partners to the follow-up High Level Forum to be held in Portugal at the beginning of June.

1.2. On 17 January 2000 the Portuguese Prime Minister wrote to the members of the European Council restating the issues. The following is an extract from his letter:

A new period is beginning in European construction.

Despite the economic recovery, serious social problems continue to exist, such as unemployment, social exclusion and the risks of a future imbalance of the social security systems — which are also the reflection of deeper-seated structural difficulties calling for courageous reform. These difficulties are heightened by the unavoidable challenges posed by globalisation, technological change and an ageing population. The European social model can only be sustained by building new competitive factors and the renewal of the social model itself.

The Portuguese presidency takes place in the year 2000. It is an appropriate moment for long term thought and decisions. This is the aim of the Special European Council we will hold in Lisbon on 23 and 24 March. We want to update the European strategy for growth, competitiveness and employment in the light of the new conditions, as well to enhance the content of the European Employment Pact.

There is a central issue which I would like to raise as a starting point. A new paradigm is emerging: that of the economy of innovation and knowledge, which is becoming the main source of the wealth of nations, regions, enterprises and people. Europe is lagging behind significantly and should define its own path for a new competitive platform, while also fighting the new risks of social exclusion. It is necessary to combine innovation with social inclusion.

I believe that we have the conditions to define a new strategic goal for the next ten years: to make the European Union the world's most dynamic and competitive economic area, based on innovation and knowledge, able to boost economic growth levels, with more and better jobs and with greater social cohesion.

An economic and social strategy to renew the basis of growth in Europe must combine macro-economic policies, and the modernisation of social protection.

1.3. The Portuguese presidency has subsequently presented its document dated 12 January 2000 entitled 'Employment, Economic Reform and Social Cohesion — Towards a Europe of Innovation and Knowledge'.

1.4. The Committee welcomes the document and the general direction of its proposals.

1.5. The Committee endorses the idea of an 'affirmative strategy'. This Opinion is also affirmative. We endorse the call for a growth rate of at least 3 % for the whole of the EU. It may need to be higher to eliminate unemployment and social exclusion. We agree that it is now essential to foster a culture of dynamism and entrepreneurship and a culture of strengthened social cohesion. We too believe that an economic and social strategy to renovate the basis for growth in Europe must combine macroeconomic policies, economic reform, and structural policies, active employment policies and the modernisation of social protection.

1.6. The ESC response is based on the proposition that the people of the European Union possess a capacity for innovation and enterprise sufficient to create all the new and sustainable jobs we need.

1.7. What is the impediment to job creation in Europe? An insufficient number of firms and other organisations are successfully innovating and exploiting knowledge resources. Creativity is a powerful human talent. Why is it not fully used in Europe? What is the new paradigm?

## 2. The New Paradigm

2.1. In conventional use, the term 'new paradigm' means growth without inflation, and is used in the context of US monetary management. In practice, this also means higher levels of employment without inflation, as can be demonstrated by the lower US levels of unemployment. For social reasons the US is not seen as a model for Europe. In a European context we could reinterpret this paradigm as follows:

- maximising economic development while minimising social exclusion and conflict;
- providing a competitive economy while sustaining a competitive social model;
- optimising the utilisation of new technologies in a strategy which is sustainable for the social and natural environment and resources;
- securing sustainability with the development of a participatory culture and an appropriate corporate culture based upon a creative approach to lifelong learning and solidarity.

2.2. In the present EU context such a new paradigm — economic growth, embracing also social cohesion, leading to employment growth but not to inflation — is the most desirable of outcomes.

2.2.1. A buoyant and optimistic economic climate is beneficial to structural change. Doing away with jobs that are no longer competitive is easier the more new, sustainable jobs are created elsewhere and the more a change of jobs entails the prospect of better working conditions.

2.2.2. What will therefore be beneficial is an economic policy which also seeks to achieve a steady expansion in overall demand over and above gains in productivity. The current problems cannot be overcome by renouncing economic growth. We need to achieve at least the 3 % growth target stated in the Presidency document.

2.2.3. If the new paradigm is an 'outcome', what are the factors that have brought it about, and what factors might create an equivalent outcome in the EU? There is no definitive answer to this question, but a number of causes can be identified. They range from the economic and the industrial to the cultural, the social and the ecological, and the demand for sustainability.

2.3. What factors are driving the new paradigm and what are its characteristics? What drives inflationless growth? Some of the obvious elements are:

- global competition, which exerts a downwards pressure on the price of goods and services in certain sectors,
- productivity, which seems at last to be entering a new dimension as a result of long-term investments in IT and telecommunications,
- skills, where changes in demand have put a minority of jobs at a premium and a majority of semi-skilled and unskilled jobs at a discount in the labour market,
- re-structuring, driven by IT, which has led to de-layering and outsourcing, both of which can be deflationary,
- development of the service sector and a transfer of employment to the service sector,
- extension of flexible 'lifestyle' employment, in terms of both location and working hours.

2.4. If the above factors explain why inflationary pressures have been reduced, what factors might account for growth?

- the dynamic industrial sector of information technology (IT), or more correctly the information society technologies (IST) sector — including hardware, software and services,
- the rapid growth of information-based industries such as media and finance on the back of IST developments,
- the progressive transformation by IST of traditional asset-based industries,
- the growth of the venture capital industry and the proliferation of new enterprises, many of them exploiting new technologies,

— the emerging impact of sustainable development policies causing both the adaptation of old industries and the development of new ones.

2.5. The factors described in paras. 2.3 and 2.4 have only been able to have positive impact on the new paradigm because of favourable fiscal and monetary policies. In turn, these have stimulated and allowed extensive investments in information technologies.

2.6. A major factor in the achievement of the new paradigm in the USA has been the role of capital markets. The huge growth in the market value of the technology sector has been achieved by a major redirection of investment. The vast growth of venture capital funds is another example of this new focus. An EU capital market does not yet exist in this way. The introduction of the euro is a vital precursor, but equity and venture capital markets remain underdeveloped. Recent cross-border transactions in Europe point to the way ahead but governments, banks, companies and regulators will need

ambition and vision on a Community-wide scale to underpin the new paradigm in the EU. However, if cross-border financial transactions are to be facilitated in Europe, it must be recognised that cross-border social movement is not possible in the same way as social movement between states in the USA. Therefore the social dimension will need a European solution.

2.7. These growth and productivity factors are in turn affecting the social, cultural and organisational dimensions of business.

2.8. Table 1 reflects the impact of Japanese manufacturing practices as explained in the book 'The Machine that Changed the World' <sup>(1)</sup>. It is recognised that customers create jobs, that people are the key asset, and that to be fully effective employees have to be empowered.

<sup>(1)</sup> Womack, James P., et al. *The Machine that Changed the World*, 1990.

**Table 1: The Old and the New Soul of the Enterprise**

Old	New
Profit first priority	Customer satisfaction first priority
Assets are things	Assets are people
Thinkers are separated from doers	Doers and thinkers are the same
Mass production	Lean production
Separated marketing with suppliers and customers at arm's length	Integrated marketing with partnership-based relationships with suppliers and customers
Organisation controlled by hierarchies, functional departments separated	Organisations based on teamwork, numerous cross-teams
Performance measurement for control, financially dominated	Performance measurement for improvement, broader measures
Scale economies important	Time economies important

Source: Hall, *Soul of Enterprise* (1993), p. 281.

2.9. Table 2 describes the new organisational ethic based on employable skills, rapid change and extensive collaboration

and reward systems.

**Table 2: Management Choices**

Pre-Revolution	Post-Revolution
Lifelong employment	Lifelong employability
Minimise risks from change	Maximise opportunities for change
Adversarial management	Collaborative management
Narrow view of main stakeholders	Extensive view of main stakeholders
Concentrate rewards	Distribute rewards
Emphasise administrative expertise	Emphasise technical expertise
Focus on continuity	Focus on continuous discontinuity
Separation and specialisation key to success	Holistic approach to organisation
Fragmented view of work and enterprise	Integrated view of work and enterprise
Stick by the old rules	Search out new rules

Source: Cannon, *Welcome to the Revolution* (1996), p. 18.

2.10. Table 3 emphasises particularly the impact of information systems on organisational culture. This is the new

paradigm in an organisational sense.

**Table 3: Transition from Industrial to Information**

Industrial Age Organisation	Information Age Organisation
Focus on measurable outcomes	Focus on strategic issues using participation and empowerment
Highly specialised knowledge base resulting in single-skilling	Interdisciplinary knowledge base resulting in multi-skilling
Individual accountability	Team accountability
Clearly differentiated and segmented organisational positions, roles and responsibilities	Matrix arrangement — flexible positions, roles and responsibilities
Linear input-output thinking about programmes	Holistic perspective on programming
Reactive in solving problems as they emerge — a short-term focus dominated by the 'bottom-line'	Proactive: anticipate issues before they become crises; achieving balance between short-term pragmatism and long-term purpose
Local perspective informs programming	Global perspective informs local action
Hierarchical, linear information flows	Multiple interface, 'boundaryless' information networking
Attention to quantitative differences	Attention to qualitative differences
Plant and equipment targeted for investment	Development of people targeted for investment
Achieving effectiveness through methods	Achieving superior performance underpinned by shared values
Initiatives for improvement emanate from a management élite	Initiatives for improvement emanate from all directions
Present-oriented, doing what is known now	Future-oriented, operating at the cutting edge

Source: Hames, *The Management Myth* (1994).



2.10.1. The existence of creative potential is increasingly the key to competitive success. Traditionally, it has mainly been the preserve of a select few to develop new solutions. But to keep up with the increasing pace of development, this creative potential needs to be multiplied. In doing so it is essential that it is not just basic knowledge and the latest technology which is promoted; it is just as important to increase specialist know-how in all areas of activity. It is therefore vital to promote employability and to continually adapt and upgrade manpower skills if the capacity of Europe's economy for innovation is to be enhanced.

2.10.2. Innovation is a profoundly social process involving people first and foremost, with their knowledge, skills and creativity. These skills need to be given room to develop in cooperative and participatory work environments unhindered by traditional hierarchies. What matters is not just following the regulations, but organising the production process in the best possible way. To achieve this, employees must be given a say. New forms of work organisation, such as group and team work, make it possible to utilise the knowledge and skills of the workforce to the full and to broaden their scope for action and decision-making, thereby creating an opportunity to combine increased productivity and competitiveness with improved working conditions for employees. Involving the whole of the workforce also entails developing information, consultation and participation processes within businesses and services.

2.10.3. Innovation, when seen not only as a technical process, but also as a social one, requires a radical change in work structures and a corresponding rethink of working hours. New answers need to be found which reconcile the objectives of business, the needs of workers and the interests of the consumers. Businesses benefit from the increased productivity thereby generated, while workers enjoy the security of competitive jobs and are better able to combine career and family. The goal must be to reconcile all interests fairly and to find a new balance between the needs of business in terms of flexibility, on the one hand, and the need felt by workers to have greater control over their time and to benefit from social protection on the other. As structural change continues, so the norm for employment conditions will change with it. Redefining 'normal working hours' requires collective agreements (and in some cases legal provisions) to guarantee the social protection rights of workers, but these in turn should not become barriers to employment and competitiveness.

2.11. The changes outlined in the three tables are radical. They are not easy to achieve in large enterprises with a history. They are much easier to achieve in new enterprises with no social and organisational legacy. This explains, in part, the

rapid growth and success of some new enterprises. The challenge is to achieve these changes in all enterprises.

2.12. The rapid pace of structural change brings risks as well as opportunities.

- Labour intensive activities employing a relatively unskilled workforce will give way to more capital-intensive industries with a more skilled workforce and person-to-person and company-to company services.
- A higher level of skilling will be required both for those joining the workforce and for those already employed. At the same time, the 'durability' of knowledge acquired will be shorter, making it necessary to respond and adapt increasingly quickly. This in turn will require a radical revision of the arrangements for training trainers.
- New forms of work organisation must involve placing greater responsibility on workers, giving them more scope to realise their potential. Greater problem-solving abilities and social skills will be required, even at the lowest levels of the organisational structure.
- Changing jobs, either within an organisation or from one organisation to another, will be more common. For many this goes hand in hand with dwindling job security. At the same time, new forms of employment, in most cases less protected, are becoming widespread, such as temporary contracts, casual labour, self-employment with semi-employee status etc., making it necessary to develop and apply adequate strategies and investments to provide adjustment for workers and provide adequate social protection. One of the most important preconditions for structural change to work well is that it should be accompanied by social security.
- The opportunities for less-skilled workers on the labour market look set to diminish further. This will bring higher unemployment, lower relative incomes and increasing wage disparity. The situation is compounded by the high incidence of long-term unemployment. Therefore adequate policies for education, training, retraining and integration of long term unemployed are needed. There will be more barriers to employment as some employees will find it difficult or even impossible to adapt.
- Poverty and social exclusion may increase and new forms of marginalisation will accompany the rapid pace of structural change. There are also dangerously increasing costs, both direct and indirect, related to social exclusion. Both private and public bodies, including enterprises, must dedicate themselves to combating this trend through adequate measures in order to make a social inclusion policy a priority in all fields.

2.13. Any sustainable improvement in the employment situation in Europe will therefore also depend on how successfully economic restructuring, particularly with regard to information technology, can be promoted and organised in a socially acceptable way, and how the ability of companies to innovate can be enhanced.

2.14. Clearly it is the intention of the Portuguese Presidency to use the Lisbon Special Summit to accelerate and accentuate the work on innovation and knowledge under way via the Cologne, Cardiff and Luxembourg processes.

2.15. The key requirement for the Lisbon Council is to take a strategic view of the condition of Europe in the context of the new paradigm. The current cyclical economic recovery could provide an excuse for not taking the fundamental action which is needed if the cyclical recovery is to be translated into a structural renaissance leading to sustained growth in employment.

2.16. It is our conviction that in Europe we do have the necessary innovation, creativity, knowledge and enterprise to excel in the new paradigm. But we must release these capabilities. Obstacles must be replaced by opportunities. Penalties must be replaced by incentives. The last decade saw the liberalisation of European industries. Now we have to liberate the energies of European men and women.

### 3. Towards the New Paradigm — a Society of Innovation and Knowledge

3.1. The task of the Lisbon Summit is to accelerate the advent of the new paradigm. To some extent the 'processes' already in place lead in that direction. The Europe of knowledge has many dimensions and a number of Community policies are designed to promote its development. Generated primarily by scientific and technological research, knowledge must be structured appropriately so that it can be spread and more readily drawn upon by ordinary people. Information technologies — themselves the product of the knowledge boom — are a powerful tool for disseminating knowledge: mastering these technologies is thus an essential step in the development of a Europe of knowledge. What we need at Lisbon is commitment to a limited number of highly visible actions which will create the climate for the new paradigm, as well as accelerate progress towards it. Action will be proposed to boost innovation. As for the knowledge-based society, the proposal is to focus on knowledge acquisition through the use of information technologies.

### 3.2. *The ESC proposes the following agenda for the Lisbon Summit*

#### 3.2.1. Adapt the social model(s) to the new paradigm

While retaining social protection, the social model in its different manifestations needs adapting to remove barriers to employment, avoid social exclusion in all age groups and reinforce equal opportunities, especially for women.

#### 3.2.2. Achieve mass training in Information Society Technologies

To ensure employability and avoid social exclusion, specific consideration needs to be given to each generation of men and women.

#### 3.2.3. Popularise and facilitate the growth of the enterprise culture

Issues include skills and employability for all, incentives for entrepreneurs and employees and recognition of the social and economic value of enterprise. By entrepreneurs we mean the founders and managers of SMEs, including social economy firms, exploiting new technologies and addressing new markets.

#### 3.2.4. Help established companies to convert to the new paradigm

The tables and commentary in section 2 have demonstrated the scale of change required.

#### 3.2.5. Adapt education and training to the new paradigm

While education and training is central to the whole concept of the new paradigm in general, and employability in particular, it is remarkable that the new paradigm in the USA is emerging from a base of generally low educational achievement. Given the support of governments and companies, the EU has an opportunity to create new employment of quality as well as quantity as a result of higher educational achievement. Investment in human capital is the basis for a society of innovation and knowledge.

### 3.2.6. Harness sustainable development for innovation and growth

Fully adapting the economy and culture of the EU to the principles and precepts of sustainable development involves radical change, fundamental discontinuity and both technological and behavioural innovation. Such developments are consistent with the new paradigm.

3.3. The Committee takes it for granted that the EU institutions and the Member States will fully involve the social partners and other socio-professional organisations when implementing the decisions of the Lisbon Summit. Such involvement is essential for success.

## 4. Adapting the Social Models

4.1. Our concern relates to that part of the social and cultural model which involves getting employed, employment protection, unemployment and post-employment retirement. A recent analysis suggests that in the EU it is necessary to recognise Rhenish, Nordic, Mediterranean and Anglo-Saxon models. These differ in their scope, the mechanics of their operation and their financing. For the purposes of this opinion it is important to recognise that these differences do actually produce different outcomes on many different scales, e.g.

- Percentage of men employed in various age ranges.
- Percentage of women employed in various age ranges.
- Percentage of young people not yet in work.
- Proportion of older people of working age permanently excluded from work.
- Etc.

4.2. Without focusing specifically on any one model we can ask some general questions about the working of all the models.

- Why are so many young people excluded from the work force in certain countries? What are the barriers to their employment?
- Why do certain models postpone the entry of young people into the work force for almost a decade — arguably the decade in which people possess most energy and inspiration?
- Why do some models lead to more single women in employment than single men, while in others this is far from the case?

— How far do different provisions for childbirth and child-care, as well as the organisation of work and family life, help and hinder the employment of parents?

— Why does cyclical unemployment convert into structural unemployment in some models more easily than others? What are the barriers to re-employment?

— What is the link between pension funding and early retirement in certain Member States? Can this linkage be broken so that the retired can be re-employed without damaging their pension expectations?

— What are the main factors that create poverty and social exclusion and what are the most efficient policies to promote the inclusion of the most vulnerable groups?

In order to find solutions and answers to these questions the EU Summit should review the process of benchmarking and exchange of good practice.

4.3. Given a framework of favourable fiscal and monetary policy, employment can be further increased when the arrangements for employment protection and social changes are well balanced.

4.3.1. The introduction of flexible working hours and other collectively agreed working time arrangements should not only be determined by companies' profit-based time management criteria, but should also give employees of both sexes more say in the way their individual working hours are structured. Making working hours more flexible broadens businesses' scope for action, but should also give employees more scope to improve coordination of their professional and private commitments. Increasing the options for employees as regards working hours also opens up new avenues in the field of employment policy.

4.3.2. As far as the cost of employment is concerned, the main problem arises in those models where social costs are recovered by a tax on employment. There is need for careful reform of these financing structures in the European context.

4.4. Pensions are a particular issue in many Member States' social models. The ratio of employment-age men and women to retirement-age men and women is deteriorating continually. Yet the retirement age is falling, the young are unemployed, and unfunded pension liabilities are a growing embarrassment and a potential cause of higher social charges. All three issues need resolving:

in the short term

- use early retirement to facilitate downsizing and to create employment for young people;

in the longer term

- bring the young into the workforce;
- reverse the trend towards early retirement;
- restructure the organisation and financing of pension systems.

4.5. Caring for future generations is essential for a future social model. With regard to children, policies to combat child exploitation should take into consideration the holistic, preventive, proactive approach provided by the ESC Opinion on this matter (CES 976/98). In this context the Committee praises and expresses its strongest support for the goal set by the Portuguese Presidency to eliminate child poverty by 2010.

4.6. As comparative studies of employment policy in the various Member States show, an integrated approach involving economic, fiscal, structural and labour market policy is required to achieve sustainable successes in the fight against unemployment. This policy mix also entails securing the future of businesses and jobs through social, organisational and structural innovations in the private and public sectors. Economic and social innovations are needed in businesses instead of unimaginative job-cutting or relocation to low-wage areas.

4.7. It is clear that the new paradigm must embrace the social model. The EU must hold onto its 'acquis'. At the same time the mechanics of the various models must be addressed. Underpinning all our thinking should be the belief that if, in the new paradigm, we really can build a society of innovation and knowledge, then our ability to create new sustainable jobs will be considerable. The social model should be mainly focussed on giving an adequate framework and protection to enable all workers to best develop and apply their skills. In the new paradigm the social model should not be defensive; it should be infused with optimism and a conviction that we can rely on the enterprise of our people. Without that, no model can help us.

4.8. While considering how the existing EU social models need to be adapted to the new paradigm, it will be necessary, as an extension of this work, to consider how the accession states from Eastern Europe and elsewhere can be fast-tracked towards the paradigm. Clearly this involves reformed business structures as well as an adequate and stimulating social framework.

4.9. We endorse Section 4 of the Document of the Presidency where it says that 'to make use of [our]... employment potential also requires stock to be taken of the European social model, which is one of the strong suits of the European project. But there are two prerequisites for its continuation in the context of globalisation: the renovation of its economic base, building new competitive factors, and the modernisation of its very structure. This will make it possible to find a new synthesis with more jobs and greater social cohesion.'

## 5. Mass training in Information Society Technologies

5.1. The personal mastery and application of IST skills goes beyond both education and work. Like the ability to drive a car in the 20th century, they are basic life skills for the 21st century.

5.2. In the 20th century the slow evolution of mass motor-ing meant that driving skills could be acquired when needed by each generation. The full development of the internet-based information society will take less than a generation. Therefore familiarisation must be accelerated. This requires both government and company initiatives.

5.3. Mass familiarisation with the Internet and e-mail offers considerable social benefits. It offers a new world of opportunity to the elderly, the disabled and the sick. Trends also suggest that the individual consumer will be better served in the foreseeable future by e-commerce than by conventional distribution channels. This means that individuals unfamiliar with the internet are likely to be disadvantaged, which may mean that the already disadvantaged could become more so.

5.4. Civil society generally needs to develop an appreciation of the risks and opportunities involved in IST so that IST can be developed in accordance with social needs. Therefore there must be both teaching and learning about the opportunities and limitations of ISTs. A virtual society is no substitute for a real society.

5.5. How should mass familiarisation be achieved?

5.5.1. Familiarising the general public with IST is not simply a question of training and acquiring the relevant skills. It is primarily a question of changing the way people think.



- Changing the way people think about accessing knowledge and information (wealth of information — speed of access);
- Changing the way people think about processing information and drawing conclusions;
- Changing the way people think about the objective value of each piece of information and knowledge, particularly with regard to the present need constantly to filter information and continually to gauge the reliability of knowledge.

With this in mind, training alone is not enough to familiarise the general public with IST. What is needed is education, and this on an ongoing basis.

5.5.2. The generation under twenty should learn IST skills in the formal education system. Where teacher understanding, teacher training and school equipment are not yet up to standard, crash programmes of improvement should be introduced. In this context, the considerable skills of many students should be recognised and harnessed.

5.5.3. The rest of the population will have to undergo a process of reeducation and training. Responsibility for this, as well as its implementation, will inevitably be down to the schools and institutions of lifelong education and training. It is clear that immediate measures and adjustments are required to achieve this.

5.5.4. A large proportion of employees are learning in the work place. Special programmes are in place in a number of Member States. This is reinforced by the influence of school age children. Schools have the potential to teach any of their parents not using IST at work.

5.5.5. However, a large proportion of the working generation just under sixty may be less exposed to and receptive to IST at work. Early retirement may mean that some of this generation will have bypassed IST completely. There is the particular issue here of re-engaging this generation into work.

5.5.6. The generation over sixty will have been largely by-passed. Yet without IST access it will be socially vulnerable.

5.6. The recommended actions for government are:

5.6.1. Ensure quality of IST education in schools with targets set to ensure that the skills are universally acquired; this will require a resource injection for the training of teachers, amongst other things.

5.6.2. For those at work, encourage schemes for IST education and training, if necessary in advance of the actual need. All employees should have the opportunity to acquire these skills and governments and companies will need to be tough minded to ensure to do so.

5.6.3. Provide employment-oriented IST education and training for the unemployed, including those who have retired from the workforce but can be re-engaged. In this context, it is also necessary to provide alternatives to IST skills for that minority that is not capable of acquiring these skills.

5.6.4. Provide community-oriented IST education and training for individuals excluded from the workplace and for the elderly, the disabled and the sick.

5.6.5. Mass penetration may also require provision of hardware at low or no cost. Unions and companies can use their purchasing power to buy cheaply on behalf of the employees. The community (5.6.4 above) may have to rely on the government and third parties. The new trend to develop sub PC devices should help the economics of internet usage.

5.6.6. The Lisbon Summit could commit Member States to these actions.

## 6. The enterprise culture

6.1. The Summit Conclusions should recognise the social and economic role of enterprise and entrepreneurs. These provide an important channel for the exploitation of technology, innovation and knowledge.

6.2. Lisbon should set out to remove the obstacles to enterprise, while at the same time gaining approval for its social and economic role.



*Actions to promote enterprise:*

6.2.1. Every school at every level should launch enterprise initiatives. Careers advisers should be trained to communicate the challenge and excitement of business careers. Young people leaving education should have the capability to become entrepreneurs in their 20s, when they are at their most creative.

6.2.2. Fiscal changes to provide incentives for entrepreneurs and their employees are necessary. A fiscal environment really attractive to venture capital needs to be created. All of this should be aimed at SMEs and the creation of new enterprises.

6.2.3. A regulatory revolution to remove the obstacles to company formation and development should be launched. By the end of 2000, reduce the number of documents needed to form a company to the absolute minimum needed in any Member State.

6.2.4. Enterprises have a finite capacity to deal with regulation. They cannot continue to absorb new regulations year after year. Even larger companies have difficulties to cope with the inflation of administrative formalities, although the cost is proportionally less than for SMEs. The regulatory trend for companies, and for small companies in particular, must be reversed and the burden reduced.

6.2.5. Politicians will need to act dramatically to stem and reverse the tide of regulation sweeping over business and society. Because government departments are compartmentalised, they cannot assess the total regulatory burden imposed on business by all departments. The European Commission and most Member States have studied the issue for years, but to very little effect. It will take draconian political action to have any effect. Member States should recommit themselves to this effort at Lisbon with an efficient monitoring process and timetable. A Small Firms Charter as recently advocated by several sources would be a highly visible and effective way of addressing these issues and bringing most of the strands together.

6.2.6. It is particularly important not to strangle e-commerce at birth. The explosive growth of dot.com companies is a major source of innovation. They need encouragement. The

determination of the Commission to drive forward its e-commerce legislation is very welcome in dot.eu. The Committee welcomes the eEurope initiative<sup>(1)</sup> and the Communication on Strategies for Jobs in the Information Society<sup>(2)</sup> which the Commission has recently presented in view of the Lisbon Summit.

## **7. Established Companies and the New Paradigm**

7.1. Change is a constant for business. Every company has within it the potential for failure. Market forces continually change the rules. Companies must innovate to survive.

7.2. Innovation can apply to all areas of business operation: research and development, products and production, markets and marketing and service provision. Where this involves the organisation of work, innovation will be particularly needed in the technical, structural and social spheres.

7.3. Innovation means change. In the new paradigm change is a constant. Business society and government must accept it readily. Enterprises must be more flexible and adaptable, less rigid and hierarchical.

7.4. Action points include:

7.4.1. The remaining distinctions between blue and white collar workers need to be reconsidered, since the flexible company aims at one class of employee.

According to Article 13 of the Amsterdam Treaty, discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, should be abolished.

7.4.2. Enterprises must achieve optimum competitive advantage from information society technologies. As a result management may be de-layered, employees empowered, new jobs created, old jobs replaced. Such changes will have to be made sensitively. Accordingly, in order to mitigate the negative consequences and increase the acceptance of change, workers will need help from government, unions and management for re-training and re-employment.

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(1) eEurope — An information society for all, COM(1999) 687 final.

(2) COM(2000) 48 final.

7.4.3. A skilled and adaptable workforce will be essential for the new innovative work environment. Currently only a minority of workers have the skills to embrace the new technologies and they are able to attract higher rewards. The majority are in unskilled and semi-skilled jobs and they are less well rewarded. There will be fewer unskilled and semi-skilled jobs in the future and it will be necessary for all workers to develop their full potential through training and retraining.

7.4.4. The Committee reiterates its request that all companies and public sector bodies employing over 1 000 employees within the EU prepare a 'managing change report' on a voluntary basis<sup>(1)</sup> to provide information on structural changes foreseen and a pro-active outline of proposed change management. Employees and their representatives should be involved in drafting and implementing the report.

7.4.5. In helping to anticipate and plan for sectoral and regional economic development the Committee also invites the Commission to make a feasibility study on the creation of a European Observatory on Industrial Change<sup>(2)</sup>.

## 8. Adapting Education and Training to the New Paradigm

8.1. Education and training should achieve the following objectives:

(a) *at the individual level:*

- fulfil personal potential
- ensure employability

(b) *at the national level:*

- fulfil population's potential
- develop the skills necessary for the new paradigm economy and society.

8.2. The basic preconditions for fulfilling personal potential is that the school system equips individuals to shape their own lives successfully, assert themselves in society and at work and develop social skills and the readiness to accept responsibility. In order to exploit the potential of new technologies to the full, it is vital, above all, to have a good to very good basic knowledge and mastery of basic skills such as speaking, reading, writing and numeracy. Lack of these skills is the major

reason for social marginalisation. The challenges of the modern world of work do not allow human skills to remain untapped. A comprehensive action plan for literacy and numeracy at all ages for all people must have the utmost priority in the knowledge society. Special attention needs to be paid to immigrants and ethnic minorities.

8.3. More thorough preparation for the world of work by the education system would help focus young people on their personal employability while also highlighting self-employment and entrepreneurial opportunities. At the same time they would learn about the economic and social contribution of business and the obligations of business to society.

8.4. To promote equal opportunities in the learning society, it is essential that women have greater access to new technologies. It is just this kind of technology to which women in some Member States still have little or no access when growing up at home or in school. This must be rectified in future to provide equal opportunities for men and women and to prevent women being pushed out of the labour market. Whereas women have benefited in the past from the expansion of the service sector, it must be assumed that the proportion of men working in such areas will grow in future. One reason for this is that, in many cases, ongoing rationalisation in typically female service occupations is creating more jobs for men in new service sectors closely linked to production. This being the case, it is important for women to acquire skills so that they can hold their own in these rapidly growing market sectors in the future.

8.5. It would be a mistake to allow our concern for employability and work place skills to downgrade the status of academic education. Individuals with important academic intellects should ideally complete academic education to the highest level before switching to a profession. Many of the best brains in business achieved first class academic results before entering business. Well trained academic minds can contribute to all spheres of national life and are needed to play a leading role in the knowledge society.

8.6. An economy seeking to exploit innovation and knowledge must be underpinned by science and technology. An adequate supply of advanced scientific, technical and managerial skills is needed and needs to be widely diffused in the workforce. Science and technology courses are not sufficiently attractive. A new approach to science and technology teaching and learning at all levels in the education and training system must be a high priority and a closer link between the theoretical study of science and its application in industry should be ensured.

<sup>(1)</sup> See ESC Opinion on 'Managing Change — Final report of the High Level Group on economic and social implication of industrial Change', OJ C 258, 10.9.1999.

<sup>(2)</sup> Ibid.

8.7. The ESC is currently producing an opinion on 'The European Dimension of Education: its nature, content and prospects' in which it will develop its proposals. At Lisbon the EU should commit itself to upgrading the skills of its existing workforce via Member State and company initiatives while at the same time promoting increased understanding and support for the enterprise culture.

## 9. Sustainable Development

9.1 It would be difficult to conceive of a new paradigm which did not encompass sustainable development. It must be a 'sustainable' paradigm and to be so it must be based on innovation and knowledge. Amongst the major concerns are:

9.1.1. The control and reduction of waste and pollution on land, in water and in the atmosphere.

9.1.2. The sustainable use of land and water, involving agriculture, forestry, horticulture, urbanisation, industrialisation, transport, tourism and sport.

9.1.3. The development of sustainable fuel resources and the use of organic fuel and other limited natural resources.

9.1.4. That food production on land and at sea be better balanced to demand and sustainability, with increased attention to the quality of the food chain.

9.1.5. A better balance between public and private transport, supported by a more rational approach to spatial planning and land use.

9.2. Development of the relevant knowledge base provides the means for improved management of sustainability. There are opportunities for public and private research but public initiatives are imperative.

9.3. There is a vast potential for job creation arising from the exploitation of technologies for environmental protection and sustainable development.

9.4. Technical, industrial, behavioural and cultural innovations will all be needed if the concerns detailed in 9.1 above are to be achieved. Successful innovation should lead to the revival of existing companies and the formation of new and successful SMEs. Member states will need to establish appropriate incentives (both carrots and sticks) to stimulate such innovation.

9.5. The prospects for a durable economic, ecological and socially stable future will improve if a broad basis of technological and organisational expertise can be built up and developed further. One of the requirements for this is a functional and effective system of innovation in which the interplay between research and education, between training, production and organisation, and between technology transfer and state policy on innovation takes on a variety of forms.

9.5.1. It is also necessary for this purpose to give more support in Europe, in terms of breadth and depth, to research and development as the seedbed and basis for future innovations<sup>(1)</sup>. At the same time the associated careers must be made so attractive that the most gifted candidates can be attracted and remain in Europe. Already in schools there must be more qualified teachers of mathematics and science subjects (and also, if need be, of technical subjects).

9.6. The Lisbon Summit should charge the Commission with the responsibility for examining the issues raised in section 9.1 in the context of existing EU programmes and commitments so that the Council can consider further actions to ensure that the new paradigm is sustainable.

9.7. The sustainable dimension will be a particular challenge for the accession of new Member States.

## 10. Government and the New Paradigm

10.1. Considering the issues highlighted in this opinion, and the plethora of Member State initiatives identified, the key issue which emerges is whether we do not also need a new paradigm for government itself.

10.2. The classical view that the state is sovereign as a service provider must be superseded by a cooperative relationship between the state and society. The public expects from the state not only that rules and regulations are observed but also that services are provided properly and efficiently.

10.3. A modernising policy by the state must

- be focused more on decentralised cooperation networks,
- give greater prominence to economic efficiency and efficacy.

This includes greater efficiency in administrative implementation and weighing the economic case for alternative methods of application.

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<sup>(1)</sup> See also Commission Communication 'Towards a European research area' (COM(2000) 6 final).

10.4. The restructuring of the state and public administration is an altogether complicated and lengthy task.

Proposals on way ahead could be set out in a separate ESC opinion.

Brussels, 2 March 2000.

*The President*  
*of the Economic and Social Committee*  
Beatrice RANGONI MACHIAVELLI

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