

In these sectors the Community has large surpluses, the stocking and valorizing of which are very costly for the consumer and taxpayer.

It is certainly perfectly justifiable to give financial support, in the general interest of course, to the maintenance of agriculture in hill and mountain areas, but this must not be incompatible with other objectives.

This is clearly what would happen if this paragraph were not deleted. (Financial aid, for example, would be given in mountain regions per area of apples, pears or peaches while in other areas grants would be given for the digging up of such areas.)

CONSULTATION OF THE ECONOMIC AND SOCIAL COMMITTEE

on a proposal for a Council Directive measures to mitigate the effects of difficulties in the supply of hydrocarbons

A. REQUEST FOR AN OPINION

At its 210th meeting held on 30 October 1972, the Council decided to exercise its option of consulting the Economic and Social Committee on the above proposal for a Directive.

The request for an Opinion was sent by the President of the Council to the Chairman of the Economic and Social Committee on 2 November 1972.

B. TEXT WHICH WAS THE SUBJECT OF THE CONSULTATION

The text which was the subject of the consultation was published in the *Official Journal of the European Communities*, No C 134 of 27 December 1972, pages 23 and 24.

C. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE

At its 112th Plenary Session held in Brussels on 26 and 27 June 1973, the Committee unanimously adopted its Opinion on the text referred to under B, with 3 abstentions out of the members present or represented.

The text of the Opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

Having regard to the Treaty establishing the European Economic Community and in particular Article 103 and 198 thereof;

Having regard to the letter from the President of the Council of the European Communities of 2 November 1972 asking the Economic and Social Committee to deliver an Opinion on the 'Proposal for a Council Directive concerning measures designed to attenuate the effects of the difficulties inherent in hydrocarbon supplies';

Having regard to the Rules of Procedure of the Economic and Social Committee and in particular Article 22 thereof;

Having regard to the Decision of its Bureau on 28 November 1972 to instruct the Specialized Section for Energy Questions to prepare an Opinion and a report on the matter;

Having regard to the Decision of its Bureau on 25 January 1973 to instruct the Section for Nuclear Questions and Energy to continue work on the matter;

Having regard to the Opinion delivered by the Section for Nuclear Questions and Energy at its meeting on 7 June 1973;

Having regard to the report presented by the rapporteur, Mr Bonomi;

Having regard to the discussions at its 112th Plenary Session on 26 and 27 June 1973; sitting of 27 June 1973;

Whereas supply difficulties in respect of imported energy supplies can be unfavourable for the economy and social life of the Community;

Whereas the common energy policy must be designed to reduce the risks of supply crisis and to eliminate or attenuate the impact of such crises on the normal course of the economic activity in the Member States and on the functioning of the common market;

Whereas the measures to be taken in case of crisis should be previously laid down and, as far as possible, harmonized,

HAS ADOPTED THE FOLLOWING OPINION:

The Section approves the Commission's proposal for a Directive subject to the following general and specific comments:

I. General comments

The Committee endorses the Commission's proposal to require Member States to equip themselves with the appropriate powers to cope with any hydrocarbon supply difficulties by taking pre-determined, coordinated intervention measures.

To this end the proposed Directive defines the type of intervention measures to be taken and provides for an advisory body which is to ensure that their implementation by the various Member States is coordinated.

The Economic and Social Committee feels that the proposal as it stands will be of limited effectiveness, but accepts that while there is no common energy policy and national economic policies are not harmonized it would be difficult to go beyond a general Directive. However, the Committee feels that the proposal could be improved, at least with regard to the procedure for coordinating powers and measures.

Article 103, which the Commission states is the legal basis of its proposal, states that the Member States

shall consult each other if any difficulty should arise in the supply of certain products and that following these consultations the Council may, acting unanimously, decide on the measures to be taken. The proposal under consideration aims at organizing the powers of national authorities in such a way as to allow the adoption of specific pre-determined measures. The Directive is thus half way between a simple organization of powers, which is the aim of the proposal, and a uniform determination of the type of measures to be adopted; however, it only provides for coordination of their implementation at a time of crisis.

This being the case, the Economic and Social Committee feels that effective coordination under the pressure of a crisis is unlikely as the Member States will tend to defend their national interests according to a subjective vision of the current national economic situation and the effects of a supply crisis. The Community measures implicit in Article 103 would probably not be taken without the coordination criteria which this proposal postulates but does not define.

The Economic and Social Committee remarks, moreover, that the proposed Directive fails to take into account the Decision of the OECD Council on 14 November 1972 regarding plans, emergency measures and the allocation of oil supplies amongst the European members of the OECD at a time of crisis. This omission is justified by the fact that the Directive was approved by the Commission before the OECD Decision was made, but an EEC Council Directive cannot ignore the fact that the Member States have already accepted various specific criteria regarding measures to be taken in the event of crisis. Thus, while the OECD Council Decision recommends the governments of the European member countries to 'draw up in advance a plan enabling them to rapidly and effectively reduce their consumption of petroleum products if they are in short supply', the Directive proposed by the Commission merely requests that powers to reduce consumption be given to the competent authorities in the Member States.

II. Specific comments

1. First recital

It is stated that 'any difficulty, *even temporary*, resulting in a reduction in the supply of products ... would be liable to cause *serious disturbances* in the economic activity of the Community ...'

The Economic and Social Committee cannot agree that any supply difficulty would create serious disturbances, and therefore proposes that this statement be deleted or at least toned down.

2. *Fifth recital*

In the present version, the phrase 'set up forthwith an advisory body' seems to indicate that such a body should start to function before a crisis occurs in order to facilitate 'the coordination of such concrete measures as may have to be taken ...'.

Article 3 of the proposal for a Directive makes it clear moreover that the group of experts would not function till a crisis has arisen.

Bearing in mind the other general and specific comments, the Economic and Social Committee thinks that the two texts should be aligned.

3. *Article 1*

1. In the list of measures which the Member States must have appropriate powers to take, those under the third and fourth indent must be taken together.

The Economic and Social Committee believes that such measures give rise to economic policy problems which could make Community-level coordination difficult. Even though it is hardly likely that a supply crisis would be so intense and prolonged that it could not be overcome by drawing on reserve stocks, and needed sizeable restrictions on consumption over and above those on purely non-essential consumption, there remains the problem of establishing which types of consumption should be completely guaranteed and which should be reduced, and in the latter case by how much. Given these problems, in the event of a really serious crisis it is hard to see how a Directive which only organizes powers and does not provide for the establishment of common preventive criteria according to an appropriate procedure, can prevent individual Member States taking decisions inconsistent with its provisions, with possible negative consequences on the functioning of the common market.

2. With regard to the last indent, the Economic and Social Committee would like the aim of the rules on price regulations to be defined more clearly and suggests inserting the word 'purely' before the words 'of a speculative nature'.

4. *Article 2*

The Economic and Social Committee considers that the Commission should not only appoint the

permanent administrative bodies responsible for implementing the measures to be taken in pursuance of the powers referred to in Article 1 but that it should also lay down the criteria for implementing these measures. The Commission should also be able to determine whether the provisions or draft provisions laid down by law, regulation or administrative action are really compatible with the objectives set by the Commission.

5. *Article 4*

Thanks to Article 4, the Commission intends to be in a position to control how the Directive is put into effect and to know, basically, whether the provisions adopted by the Member States give their competent authorities the powers mentioned in Article 1.

While agreeing with the Commission's proposal, the Economic and Social Committee feels that the various phases of the procedure of notification to the Commission and of the latter's control should be better defined and coordinated.

The Economic and Social Committee therefore, proposes to amend the first four paragraphs to read as follows:

1. The Member States shall communicate to the Commission;
 - (a) The provisions *which they believe* meet the obligations ⁽¹⁾ defined by this Directive which are prior to the date of its coming into force,
 - (b) the draft laws, regulations and administrative procedures *which they contemplate* adopting in pursuance of this Directive;
 - (c) *the laws, regulations and administrative procedures referred to under (b), once they are adopted.*
2. Within three months of such communication, the Commission shall express an opinion on the conformity to this Directive of the provisions *referred to under a) and c) in the preceding paragraph.*
3. (unchanged)'.

The Economic and Social Committee does not feel it necessary to make specific provision for the Commission to take a stand on draft provisions:

⁽¹⁾ The French and English versions say 'Obligations laid down by the present Directive', while the Italian version talks of 'objectives' (*obiettivi*).

- (a) as regards Regulations and administrative procedures, as it is not specified, nor is it easy to do so, at what stage of preparation the Member States are required to notify the Commission?
- (b) as regards law, it must be assumed that the obligation to notify comes into effect when a draft law is tabled in Parliament at the initiative of the government or the Parliament, even

though that draft law may be rejected or amended by Parliament.

The present version of the proposal does not state that the Commission is to express an Opinion on such drafts. The Economic and Social Committee believes that the Commission could communicate its comments on draft laws to the government concerned, especially when these contain provisions which clash with Community norms or policies.

Done at Brussels, 27 June 1973.

*The Chairman of
the Economic and Social Committee*

Alfons LAPPAS
