

The background of the entire page is a black and white outline map of Europe, showing the borders of various countries. The map is centered and occupies most of the page's area.

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**THE TRANSFRONTIER COMMUTERS
IN EUROPE**

Summary report

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Flows of transfrontier commuters in Europe (1975)



THE TRANSFRONTIER COMMUTERS IN EUROPE

Summary report

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The study "The transfrontier commuters in Europe" was undertaken on the initiative of the Directorate-General for Regional Policy in accordance with Article 260 of the general budget of the Commission: "Consultations, studies and research of a limited character". The study was conceived and carried out materially by The University Institute of Europe Studies at Geneva under the direction of Mr Charles Ricq.

The version presented here is a summary of the final report of some 600 pages in which detailed analyses are advanced giving rise to the conclusions contained in this summary.

The final report, which will be published at a later date by the Commission of the European Communities as one of the series "Studies on Regional Policy" may in the meantime be consulted at the Directorate-General for Regional Policy.

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SUMMARY OF THE FINAL REPORT
ON THE STUDY OF TRANSFRONTIER COMMUTERS REQUESTED BY
THE COMMISSION OF THE EUROPEAN COMMUNITIES

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The transfrontier commuters of Europe, even though representing a very small proportion of the working population (some 250,000 in 1975), are faced with special problems requiring special solutions. To some extent they mirror the difficulties encountered by European integration and are sometimes the victims of the slow rate of European construction. The study requested by the Commission of the European Communities through the Directorate General for Regional Policy had two purposes: firstly to assemble the fullest knowledge possible of an economic and social character on flows of transfrontier commuters, secondly to consider their problems in detail at all levels in order to throw light on Community or European solutions which could solve their particular difficulties. This brief summary of the final report will first explain the plan of the study and its course during the year 1977 and will then consider the results of the study itself, in the light of the special problems affecting the transfrontier commuters of Europe, as these in turn affect the statistical, economic, legal, social and fiscal fields. Lastly it will endeavour to outline a number of solutions in these different fields from a resolutely European angle.

The general problem sequence of this study begins with recognition that the transfrontier commuter is no simple migrant and then asks the basic question: does this worker, who is more vulnerable than others to economic recession and inadequacy of European construction, require a special statute to collate all his rights and duties? For the basic problem of the transfrontier commuter is the fact that his place of work and his home, although close, are separated by a frontier forming a physical boundary of national sovereignty and thereby and above all a boundary between different political systems. The basic question is then to know if this political "dichotomy" of home and work of the frontier commuter requires the adoption of a special statute or at least certain specific rules established by bilateral or multi-lateral agreement or still better Community or European agreement governing his/her particular case with respect to job security, purchasing power, tax position and social security. At a more general level of thought, one may also be justified in enquiring into the special catalysing role of the transfrontier commuter in indicating a group of problems, which are impeding the course of European construction. In this context, a question, which merits attention is to know on the one hand if this worker is considered as additional labour or economically integrated into the frontier regions where he works and on the other hand if he is increasingly being driven into a marginal cultural and political position in the country where he resides through the lack of adequately developed transfrontier regionalism at least at Community level. This is why it is preferable to leave on one side the easy assumption of the transfrontier commuter as "victim" or "privileged person" and to concentrate instead on problems, which affect him or her at regional, national or European level with a view to attempting to outline solutions at this triple level.

1. The study : its plan and progress

- 1.1. Six principal chapters form the framework for the study on transfrontier commuters. They deal in turn with accepted definitions of labour and of frontier areas at international, Community and bilateral levels; with population and social and economic characteristics of this form of labour; with the principal causes which give rise to the flow of workers across the borders; with their social protection, which may extend to job guarantee; to the tax laws applying to them; lastly the outlines of possible European solutions conceivable for these transfrontier commuters through more coordinated or even more realistic treatment between all European countries, whether or not they belong to the EEC.
- 1.2. The progress of the study was synchronised for work on all chapters abovementioned. The general method used was to collect information where it existed or where it could be reached, to analyse and then interpret it in either the statistical, economic, social or fiscal fields.

The statistical approach was "regionalised" as far as possible. Where information allowed, frontier flows were analysed with reference to fairly distinct economic regions; alternatively for geographical areas extending the whole length of a frontier between two countries e.g. the Belgian-Netherlands frontier etc. The statistical analysis has thrown light on the population and social-economic traits of transfrontier commuters and on their importance and place in frontier region economies. At the regional level, the causes of transfrontier movements (circulation) were found to be by varying degrees due to history, geography, economics, politics and culture. The statistical means for studying these causes in detail is unfortunately not generally available. The lack of general profiles or studies of most frontier regions has unfortunately also limited the analysis of transfrontier circulation in each region.

The chapters on social security and tax rules applicable to transfrontier commuters deal with the following subjects in the following order : analysis of Community or bilateral conventions or agreements; national rules; as far as possible consideration of administrative practice; lastly the study of "case histories" of transfrontier commuters supplied by some of them or by the organisations representing them.

The study ends with outline European solutions prepared according to statistical, social and fiscal data on frontier labour; firstly by proposing uniform treatment of the concept of transfrontier commuter, secondly by bilateral and multilateral coordination on its legal background, its social protection and its tax rules.

2. The problems

Throughout the period of the study many problems affecting workers came to light with varying intensity when seeking statistical or economic data or in analysing conventions, rules and consequential administrative practice, or also when interviewing groups, associations, syndicates or isolated commuters. All problems are not at the same level. Some are discriminatory, others reveal simple inequality of treatment, some again different situations due to the complex nature of the frontier question.

This section deals in turn with legal or conceptual, statistical, economic, social, fiscal and political problems. But in decreasing order of importance, according to transfrontier commuters themselves, in all European regions where they work, their priority problems are: job guarantee, continuous vocational training, taxation, social security, labour legislation, integration of place of work and of residence.

2.1. Problems of concept

There is no homogenous or uniform definition of the transfrontier commuter. Definitions vary according to whether the concept is considered geographically, from a time optic or politically since either areas differ in size (10,20 km or list of local authorities) or the time varies between home and place of work (daily or weekly commuting or in excess of 183 days) or there is emphasis on the national sovereignty of the State of place of work or the State of residence. Regulation 1408/71 EEC seeks however to normalise the principal parameters indicating the specific nature of the transfrontier commuter i.e. any worker at work on the territory of one Member State and residing on the territory of another Member State where he returns in principle daily or at least once a week.

This Community definition, with which it seems all departments of the Commission do not agree and which differs from more or less the majority of bilateral or multilateral conventions between Member States and with third countries, is without doubt deficient because of being too broadly drawn not because it makes no reference to frontier regions - the historical consequences of the exaggerated protection of national labour markets - but because it introduces weekly commuter circulation which sometimes involves fictional or apparent domiciles or even practical accommodation problems. In any event, whatever the agreed definition, narrow or broad, exhaustive or condensed, the principle of the free circulation of workers, on which the movements of transfrontier commuters depends, at least for Member States, neglects various obstacles not linked directly to legal problems namely: greater uncertainty of employment, fluctuation in rates of exchange, distortion with regard to social security, customs, police and exchange controls, inadequate transport and infrastructure, etc. Lastly a problem arises because the same person may be treated as a transfrontier commuter according to some rules and regulations but not according to others. Within this meaning, uniform interpretation has to be sought in regulations and provisions applying to such widely differing matters as taxation, social security and free movement of workers.

2.2. Statistical problems

It is unnecessary to dwell at length on this subject. Everyone knows the difficulties encountered not only by European institutions but also by each Member State in establishing perfectly trustworthy regionalised statistics. Statistical data for frontier commuters are the more uncertain, where they exist, because they are "transfrontier". This lack of reliability also affects methods of data collection and the varying definition or nomenclature between countries and between administrative departments within a single State or single region. There is no regional centralisation in any European country, even where government is centralised, with regard to frontier statistics; the information available varies

both between countries and between regions; more accurate approaches through the various economic, social, cultural and population parameters used to identify the transfrontier commuter are virtually non-existent. All these regional, national and European statistical problems show how hard it is to instance the frontier phenomenon in figures, let alone describe it.

2.3. Economic problems

We must distinguish in turn between two types of economic problem; those directly affecting frontier workers and those affecting the frontier regions.

2.3.1. The economic problems of transfrontier commuters

Despite their inadequacies the trend curves of transfrontier commuter flows, along the main frontiers, German-Netherlands, German-Belgium, French-Swiss and Italian-Swiss, indicate that the problem to be faced by this frontier labour is basically economic. Indeed, in some regions, it is considered clearly as additional labour and not as a category of worker broadly integrating with job structures of the host country. In other words, if a slump occurs, the frontier commuters are often the first victims of recession or economic stagnation. Their main problem, even in areas where their work is complementary to that of local resident working population is certainly one of job guarantee and job security whether Member countries or third countries are involved. Closely linked to this problem is that of unemployment, which would also affect more emphatically the frontier commuters in the form of total or partial unemployment; this is all the more serious because their residential regions are often more affected by job losses, for economic or structural reasons, than their host regions.

Many frontier and above all many representative organisations have dwelt on the fact that transfrontier labour is fairly often unskilled; this makes it the more sensitive to recession since its vocational training is usually inadequate if not non-existent. This important problem of vocational training and increasingly that of continuous or permanent training is felt keenly by transfrontier commuters, whether with regard to their country of residence or their country of employment. This same problem also applies to their children. In some regions, notable inadequacy of vocational training bodies or transfrontier agreements, to enable commuters to benefit from such existing facilities beyond the frontier, make this whole problem more acute.

If the transfrontier commuter is very sensitive to job insecurity and inadequacy of professional (vocational) training, he is also to a lesser extent - all depends on the regions - sensitive to wage inequality. Where no collective agreements exist with application closely inspected by all the social partners, this is reflected in commuter wages; some employers argue the case of favourable exchange rates for lowering wages; this invites some resentment from working residents, and trade unions in the host country where transfrontier labour becomes a factor in lower wages policy. Clearly the problem of wages is felt keenly by the commuters working in a country with weak currency and who see income and purchasing power fall with each successive currency devaluation; this

happens - the case is nearly unique - with Belgian and German workers employed in France.

Agencies for temporary labour have created discontent among the commuters in many frontier regions, not because of temporary nature of the work but due to employment conditions, social security cover, job guarantee, wage levels, the currency in which they are paid and work permits which sometimes contain illusory elements.

2.3.2. The economic problems of frontier regions

The difficulties encountered by transfrontier commuters are frequently only a reflection on the economic imbalances appearing in many frontier regions, which are really varying rhythms of economic development. Not everything certainly is imbalanced. There are natural commuter movements of labour in frontier towns, which like every conurbation attract the factors of capital and labour and flows of goods and services over and above frontiers. There are natural phenomena often joined however by artificial flows created by frontier complications or more exactly by political, social and economic systems created by the frontier.

This confrontation abovementioned between varying political and economic systems also may be found in cases not of frontier towns, which are poles of attraction but of transfrontier regions experiencing imbalance. This may be due to a lack of adequate valid infrastructure, to weakness of investment able to create jobs complying with the skills of the working population; it may also be due to the lack of will power - or possibility - of a regional policy angled towards restructuring and equipping productive machinery to meet the needs of changing technology at the present time or of profound changes in the international division of labour.

Each frontier region has its own structural and economic problems. For this reason to give absolute priority to national sectoral policies as opposed to regional policies would doubtless only aggravate economic imbalances and employment problems encountered in a certain number of frontier regions. At least sectoral policies should be sufficiently regionalised so that these transfrontier regions treated as a whole or within each of their economic sub-groups are not subjected more than others to the present "redeployment" of the means of production. All these regional imbalances, above all at breaking points, which are once again the frontiers, show the inadequacy of European economic integration; the transfrontier commuters, where their movement and origin are artificial, are also indicators. In this connection, one need only instance the case of variations in rates of exchange, in the absence of economic and monetary union; which in some frontier regions create artificial flows of labour, goods and services whose direction, meaning, size and density are derived sometimes day after day from actual monetary fluctuations.

2.4. The social problems

The various Community regulations, principally Regulations 1408/71 and 574/72 relating to the application of social security rules to wage earners and their families moving from one place to another within Member States give fairly complete social protection to transfrontier commuters.

The problem remains, however, of social cover for commuters working in third countries (Switzerland and Liechtenstein) or coming to Community countries from third countries (Austria, Spain and Yugoslavia). Even where, as in the case of Switzerland, a notable improvement has taken place in social security for migrants and frontier commuters, bilateral conventions between that country and Member States have not settled all problems of social protection for transfrontier workers, among others those concerned with sickness, unemployment, family allowances etc...

However, even at Community level, there is need for comment : certain social problems will remain insoluble so long as there is no integrated and generalised social security in Europe. Indeed, discrimination, imbalances or inequalities concerning treatment will always exist where elements of different systems of national social security are mixed - and this is the case for transfrontier commuters taking account of their twofold belonging to a country where they work and a country where they have their home. This mixture can only cause complications, indeed injustice since each element is part of a whole and this whole has its own basic principles of social security (generalisation, partial or total solidarity, combined management etc..), its own particular definitions and benefit (extent of cover, concept and degree of infirmity ceilings for contributions and benefits etc.) as well as its own system of financing (by contributions or by taxation).

Added to these insoluble problems, in the absence of sufficiently advanced European social integration, are on the one hand monetary problems and on the other hand a certain number of problems linked with obtaining social benefits, with integration or marginal situation of frontier workers due to their great geographical and even vocational mobility, with their representative character and the representation of this special category of labour. Monetary problems : loss of purchasing power of transfrontier commuters in relation to their wages, their income or their social benefits becomes striking when they work in a country of weak currency. Certainly it is difficult for the host country to grant special compensation to workers because they live in another country taking account of differences of treatment this would occasion with regard to its own nationals or residents.

Administrative and trade union problems also exist for transfrontier commuters. Among the first are those concerned with direct or indirect "responsibility" by the country of employment or by the country of residence (indemnified by the country of employment). This responsibility, undertaken by one country or by both often requires research, which is sometimes complicated since it has to be done across frontiers; dossiers must be compiled, there are delays in payment, sometimes very long, of benefits in cash for the family and not only for the individual workers, of benefits in kind in the country of residence or employment etc... As to difficulties of "representation" or "representative character" of transfrontier commuters, these vary and are specific for each region. In some, associations, groups, protective committees seek, more often in the country of employment than in the country of residence to correct discrimination or inequality of treatment to which these workers are subjected; in other regions, trade unions in the country of employment and/or the country of residence act sometimes convergently, sometimes in parallel fashion. Lack of concerted action, above all trans-

frontier, between these various organisations, trade unions or otherwise, was very evident in some regions. At national and European level, this lack of representation or of representative character of transfrontier commuters was also noted.

Sociological problems refer essentially to integration or to the marginal socio-cultural situation of the transfrontier commuter in relation to his place of work (his business) and his place of residence (local authority or district of residence). The majority of stereotype comment in the mass media, on either side of the frontier, sometimes refer to him as a "foreigner" at place of employment (with all the xenophobia that comprises) or as an "economic deserter", or as getting the best of both worlds in country of residence. It is therefore important to be better aware of these integration difficulties surrounding the transfrontier character of this kind of labour as they have economic, cultural, psychological and indeed political repercussions. Connected with these sociological problems are also those concerned with education and training: what school programme to follow, what apprentice training, what equivalent diplomas to seek, what vocational retraining to hope for etc..? taking into account the transfrontier consequences of each of these points for the frontier worker and his family.

2.5. Taxation problems

As in the case of social problems, the diversity and variety of national taxation systems create inequality of treatment for transfrontier commuters, despite all the bilateral conventions existing between Member States or with third countries on double taxation. Indeed, two principles appear from these conventions : the transfrontier commuter is taxed at source - this is the most usual case - or he is taxed at his place of residence; the rule of effective rate i.e. the rate applied to accumulated income whatever its origin is applied in both cases. The taxation problems of transfrontier workers concern firstly the differences created by applying these two principles - taxation at place of work or of residence; then come latent or disguised discrimination deriving from domicile or vocation, inequality of treatment by comparison with nationals with regard to tax remissions or rebates. In replying to this form of discrimination, some administrative departments, in spite of the administrative aid provided for in most bilateral conventions, affirm that the income tax declarations of transfrontier workers lack "Transparency".

Closely linked to taxation problems is that of responsibility for the cost - and therefore tax cover - occasioned by the transfrontier worker both at his place of residence : home infrastructure, education, health etc. and at his place of work : investment needed to create and maintain employment. This basic problem of the transfrontier costs charges and profits adjustment of transfrontier labour is far from being settled within the EEC.

In a large number of bilateral conventions, mainly between Member States of the EEC, the case of independent workers has often been left in the shade. Whether persons employed in the liberal professions or on handicrafts, independent self-employed persons working full or part time, sometimes on both sides of the frontier, this kind of taxpayer should not be forgotten even though, in general, they are subject to the principle of tax at source.

2.6. Political problems

In the context of economic problems, a distinction should be drawn, even if they are connected, between those affecting transfrontier commuters as such and those affecting frontier regions. The political reference in this paragraph applies to the power concept i.e. it refers to the intervention or to direct action by elected representatives, leaders, parties, trade unions, administrative departments or regional organisations, also national and European organisations, in so far as they share political power to a greater or lesser extent.

2.6.1. The political problems of transfrontier commuters

All that has been said already with regard to problems of definitions, economic difficulties, inadequate representation, absence of statute (defining status) etc. is also applicable to the political problems mentioned above. Definition is the first problem affecting the transfrontier commuter and it derives from the specific nature of his situation : this may be vague or precise, full or limited, according to particular cases (conventions, rules, administrative arrangements ...). Additionally there are varied concepts of "frontier areas" "frontier systems" "frontier regions". The lack of European agreement on these definitions only complicates further the situation of frontier labour.

Added to the political problem of creating a specific statute for the transfrontier commuter - an envelope as it were for all his rights, duties and claims - is of course the question of what this statute is to contain. Should it be minimal or maximal i.e. should it contain as little as possible in order to apply to the great variety and complexity of all European transfrontier regions - Member States and third countries - or would it be preferable to prepare a model type convention, which would include all that is desirable with regard to the rights and duties of the transfrontier commuter? Should this task of establishing a statute - if thought necessary - be confided to one or other European institution (European Communities, Council of Europe, European Parliament..) or to close collaboration between Brussels and Strasbourg for instance? Whatever statute there may be, if any, regional, national and European political decisions are alone able to correct insecurity of job, inadequacy of social security, economic and cultural discrimination affecting transfrontier commuters.

The debate on the statute of transfrontier workers is inseparable from that of the organisations, which represent it at social and economic level. Whether trade unions, protective committees or professional or trade associations, the rights and duties of frontier workers must be properly taken up by bodies which are respected and listened to at regional, national and European level; since specific solutions at European level must, as we have seen, be sought for specific problems. Representation and representativity of the frontier worker are in this respect the most important points.

To those who affirm that only European union, in all its forms, economic, monetary, social, cultural, political can solve the manifold difficulties and discrimination affecting transfrontier commuters, the latter will reply and in all the regions concerned that they cannot wait for this

union, which is still an ideal. Practical solutions, in all the fields instanced in this study, must be found and thought out in order to correct at least some of the problems faced by the frontier workers in Europe and show how much Europe has to do to achieve union. The basic political problem is to know whether the advancement of Europe in small doses is compatible with or should indeed precede the full realisation of the principal aims of the European treaties.

2.6.2. Political problems of frontier regions

The political difficulties of transfrontier commuters are only the reflection of those experienced by the frontier regions. For the latter, indeed, the issue is also to some extent a problem of statute or of function. Their list of claims is not small. In many regions, considered as peripheral by most States, there are serious problems of investment, restructuring or even of simple economic development while within certain frontier areas economic imbalances or irregular movements of economic growth become cumulative and benefit sub-groups on one or other side of the frontier. This means that labour movements, flows of goods and services and sectoral or global polarisation of an artificial or negative nature may take place in some sub-regions which lose them to other sub regions. In this sense, problems of investment, of restructuring due among other things to technological changes and of employment are convergent; frontier regions, more than others apparently, suffer through lack of information and of sufficient concerted action and cooperation across frontiers between all the private and public organisations concerned. Indeed there are not always concerted regional economic policies to add to traditional territorial, historical, cultural, demographic and ethnic links so that in some frontier regions a dual peripheralism appears worse than the original and to some extent cumulative.

These functional links across frontiers between the authorities and socio-economic partners concerned are sadly lacking in most frontier regions even at information level let alone concerted action, cooperation or even uniform treatment or integration. Regional planning across frontiers does not exist in Europe even within the EEC. This functional cooperation across frontiers does not require, as some would wish it, a transfrontier regional authority; intelligent objective concerned action between interested bodies would suffice. For lack of adequate EEC guidance on this matter or at least for lack of applying new Community guidelines on regional policy, whether within or outside quota assistance, many frontier regions continue to decline; flows of labour across frontiers, changes in their levels or even their weakness are evidence thereof.

If the peripheralism of frontier regions is linked to their geographical situation, the question arises - and in some areas it rises acutely - whether the latter should continue, when crossed by a frontier, to be regarded as simple cushion zones between political and economic systems of different character, as areas of confrontation, perhaps interlocking, over very limited districts, or rather to envisage them as real trans-frontier regions - of a functional character - covering surface areas sufficiently broad to be able to refer to them as regions or "basins" and no longer as zones.

The inventory, more or less complete, made throughout the study, of the principal problems encountered by transfrontier workers and frontier regions has made it possible to measure the extent and complexity of these problems. In relation to the frontier flows revealed by more or less satisfactory statistics, questions bearing on the size, intensity and direction of flows and their maintenance and development throw much light on the tensions, conflicts and imbalances still existing within the slow process of European integration. As to the transfrontier workers themselves, their daily lot is beset with difficulties regarding job and wages security (guarantee), their social and legal protection, their continuous vocational training, their tax obligation, their representation and representational status and manifold worries occasioned by daily crossing of a frontier. It is at a higher level, although linked to the former, where the problems of the frontier regions arise with regard to their imbalances, irregular development, inadequate infrastructure, investment and restructuring, lack of information, concerted action and transfrontier cooperation within a perspective, which is at least functional in character. Problems of transfrontier commuters and of frontier regions : problems eminently European and general because they affect all social, economic, monetary, political and cultural fields but yet specific although analogous to all those facing most European regions. We must now look at the main results appearing from analysis of present European transfrontier facts in order to deal through this study with some of the problems of transfrontier commuters mentioned.

3. Main results of the study

The first purpose of the study on transfrontier commuters was to furnish a better understanding of the number and main characteristics of transfrontier commuters, to analyse in detail their legal, social and tax situation. In this dual perspective the following main results are presented before indicating, in a fourth section, outline solutions for the important problems encountered, in varying degree, by the European transfrontier commuters.

3.1. Statistical and economic results

First it must be stressed that the size of frontier flows is doubtless smaller than it might be. Difficulties of European integration are implicated here. In 1975, movements across frontiers involved some 250,000 people. The attached general map (1) of flows of workers across frontiers in Europe shows at a glance their size and direction. These movements are concerned mainly with Northern Europe including Switzerland; countries attracting this labour in decreasing size order are Switzerland (99,400), the Federal Republic of Germany (74,000), the Netherlands (19,500), France (16,400), Luxembourg (11,900), Belgium (7,500), and well behind are Austria, Denmark and Italy. At transfrontier region level, still in decreasing size order, are the following main regions : Ticino-Lombardy (30,200), Geneva-Ain-Haute Savoie (28,400), Saarland-Palatinate-Luxembourg-Moselle (24,000), Basel-South Baden-Haut Rhin (22,500), North Brabant-Antwerp-Limburg south (18,300), Lower-Upper Bavaria-Vorarlberg-Salzburg (16,000), Rhineland-Westphalia-Limburg (15,000), Hainaut-West Flanders-Nord (France) (15,000).

In addition an average profile (with all the inaccuracies of average) of the social economic situation of the transfrontier commuter appeared little by little at regional, national and European levels through various statistics. It can be said that as a general rule, this worker is under 30 years old (inferring that he returns to his country of origin or residence thereafter), that he is relatively skilled but occupies only subordinate posts, that the distance between his home and place of work is 20 to 30 km., that he is usually unmarried and male, this applies to more than 60% of them (30 to 40% are married). Certainly this is only an average profile with all the disadvantages of average analysis confronted with variations; differences between regions are sometimes considerable e.g. for the social vocational category, 4 workers out of 5 working in Germany are unskilled workers whereas 3 out of 5 workers commuting to Geneva are skilled or even highly skilled.

European movements (circulation) across frontiers with regard to directional impetus seem to comply with the classical (usual) laws governing movements of labour and tend to concentrate in development poles such as Geneva, Basel, Lille-Roubaix-Tourcoing, Aachen, Maastricht, Eindhoven, Saarbrücken, etc. - with intermediate subdivisions more or less homogeneous in character. However, usually, transfrontier circulation is one-way, the only exceptions being Franco-Belgian and Belgo-Netherlands. It is therefore necessary to distinguish between exit countries and entry countries. Turning to the size of movements and stressing density of frontier flow rather than regionalised figures, and therefore in the perspective of debtor and creditor countries, the following list indicates in decreasing size order : the French-Swiss frontier in the lead with 49,000 (68% French) followed by the Italian-Swiss frontier with 32,900 (all Italian), the Belgo-Netherlands frontier with 28,200 (23,350 Belgian and 4,900 Dutch), the Franco-German frontier with 27,000 (96% French), the German-Netherlands frontier with 22,150 (Dutch), the Franco-Belgian frontier with 18,750 (15,000 Belgian, 3,750 French), the German-Swiss frontier with 18,100 (all German), the Austro-German frontier with 4,300 (Belgian), the Franco-Spanish frontier with 2,100 (Spanish), the German-Luxembourg frontier with 1,400 (German), the Franco-Italian frontier with 1,100 (Italian but this is only a partial figure) and the German-Danish frontier with 340 (Danish).

The trend for transfrontier workers is linked in part to changes in national and international economy and in part to the local situation of their particular districts. The few cases studied show that frontier movements take place between areas with different employment structures, in this way they sometimes appear to diminish certain imbalances.

The explanatory factors of these movements fall into 3 categories. The first factors are those which promote movements and are demographic and economic in character; they illustrate the decisive role of frontier development poles and of substantial differences in the efficiency of national or regional policies applied to adjacent areas, especially regarding employment. The second factors are those promoting frontier movements at area level; they are geographical, historical, institutional and social cultural in character. The third factors are the personal reasons of workers having chosen to become transfrontier workers; they derive from a large number of different reasons in which however the job and sufficient job-training factors seem decisive. Study of these

explanatory factors shows that, within the actual European institutional framework, transfrontier movements indicate deepseated structural imbalances felt most acutely in frontier areas; nevertheless, considered from the optic of European integration, they are real indicators of the necessary mobility of labour as a production factor since they are governed by attraction and repulsion caused by the consequences of polarisation and homogeneity.

Lastly the outlook for transfrontier movements are as much political as economic since they are linked to regional cooperation across frontiers. Future limitation of these movements would be contrary to combined opportunities of economic and political development of functional transfrontier regions, the symbol, at least in part, of European integration.

3.2. Transfrontier commuters and unemployment

The world economic slump which materialised after the energy crisis was felt strongly throughout all European countries. Its repercussions on the labour market took the form of a sharp increase in unemployment of the working population in general and of transfrontier labour in particular.

In 1976, of 106 million working population in EEC countries, there were more than 5 million unemployed (5,243,000 unemployed or some 5% of working population) and while there are no precise figures on unemployment for transfrontier workers, a rough calculation for 1974 to 1977 suggests that some 50,000 transfrontier commuters lost their jobs (more than 20%). This fall in employment was felt especially in countries attracting most workers such as Switzerland; alone this country employs nearly 40% of transfrontier commuters from the Europe of the Nine (26,723 fewer workers or 24.8% less between 1974 and 1977); in the Federal Republic of Germany employed transfrontier workers fell by 17,015, a fall of 28% between 1973 and 1976; in the countries supplying labour across frontiers the fall was less marked (France less 2,878 or 16% less between 1973 and 1976) but Belgian workers rose in number by 674 or +12% between 1973 and 1976).

Generally changes in transfrontier workers in the last four years have followed the following pattern: decline in the number of transfrontier commuters from 1974 (even from 1973 in the case of the Federal Republic of Germany), sharp decline between 1974 and 1975, smaller decline in 1976. However the Grand Duchy of Luxembourg was an exception; transfrontier workers increased throughout the years considered (rise of 4,614 or +48% between 1973 and 1976). The employment situation in frontier regions of home and work of transfrontier workers was much affected by the bad economic situation of recent years. Considered by regions there was a stiff increase in unemployment between 1973 and 1974 (Federal Republic) or 1974 and 1975 (France and the Netherlands and Belgium); then unemployment slowed down in the Federal Republic, 1976; nevertheless the rate for countries as a whole continues to be large, 20% to 30%.

Population distribution of unemployment (by sex and age) differs according to region but as a whole women have been more affected by unemployment than men just as young people and especially those in search of a first job (class 14 to 24) have been principally affected and women more

than men. When comparing the trend of transfrontier workers and employment in frontier regions of work and residence, it will be seen that employment is to some extent unequal in these regions depending on whether they are exit or entry regions for transfrontier labour. On average the level of unemployment in exit regions is, all else being equal, higher than that in the entry regions. In addition, the rate of unemployment in exit frontier regions is generally higher than the rate of unemployment as a whole in the countries concerned while it is lower in the entry regions. The only regions where this comparison does not apply are residence and work regions i.e. regions where flows are of the same size in both directions. [Translator's note : suggest this needs checking; from the foregoing text it seems dubious whether any such complementary two way flows exist; meaning therefore seems questionable/.

From these facts the conclusion emerges that the flow of transfrontier workers is a necessary factor both for exit regions, unable to provide jobs for this surplus labour, and for entry regions, unable to fill their labour gap without calling upon their own nationals (by way of inter-regional migration) or migrant workers (with all the problems, social and cultural, and of infrastructure they entail). The transfrontier commuters therefore represent one of the first elements of complementary labour in crossfrontier regions.

While a lack of statistics and problems of method render difficult the task of assessing whether transfrontier commuters are more affected by present economic recession, the conclusion may still be drawn that transfrontier labour has been more affected than labour elsewhere since there has been substantial change, a fall of 20%, in the last four years and the reason is that this labour is usually treated as supplementary and not as labour integrated in the local regional economy of the country of work.

3.3. Factors for defining the transfrontier commuter and the social and tax situation

Analysis of the various conventions, rules, bilateral or multilateral agreements shows substantial differences with regard to the concept of the transfrontier commuter. For this reason it would be desirable to create at Community, indeed European level, a kind of "common standard", "a common basis" for obtaining firstly a model definition of the transfrontier commuter and thereafter, with slight changes due to national or regional variants, a series of comparable rules governing taxation and social security for instance.

3.3.1. Factors for defining the transfrontier commuter

A starting point for definition may be Article 1 (b) of Regulation 1408/71 of the EEC since it contains two important features concerning transfrontier commuter, one geographical, the other in terms of time; the term "frontierworker" (transfrontier commuter) implies any worker:

- employed on the territory of a Member State and resident on the territory of another Member State;
- where he returns in principle daily or at least once a week.

It should be noted that while the two most recent EEC regulations on transfrontier commuters - essentially 1408/71 and 574/72 - refer to "frontier area" and not "frontier system", on the contrary most bilateral conventions do indeed refer and insist thereon for historical, economic or political reasons peculiar to each country or region.

However a common definition of transfrontier commuters may be either narrow or broad, either restricted or exhaustive. It seems therefore necessary to establish this common basis abovementioned in order to collate all the elements, which may be included in a definition leading to a statute containing the rights and duties of the transfrontier commuter, which may be broadened thereafter. These elements are :

- 1) the transfrontier commuter is a commuter or to and fro traveller (some talk incorrectly of "daily migrant"),
- 2) his residence and place of work are on the territories of two separate States,
- 3) in a frontier area, which, in so far as one wishes to retain it (these areas arise historically from a concern to protect the national labour market) should not be confined to strips of 10,20 or even 50km., according to bilateral or multilateral regulations, but should comprise complete administrative units of the various countries concerned (departments, provinces, Regierungsbezirke, etc.); this would avoid preparing very long lists of several hundreds of local authorities (which lists would not always correspond to areas of 20 or 10 km.),
- 4) the transfrontier commuter crosses a frontier daily or weekly to travel from his home to his place of work for at least 6 months or more (cf. OECD model and 183 days minimum),
- 5) in order to carry out a main activity either dependently within secure employment or independently,
- 6) without restriction regarding nationality (that of Member States) once a residence permit has been obtained in conformity with the practice of the country of residence provided this practice does not run counter to the Articles of the Rome Treaty on the free movement of workers and the free provision of services,
- 7) social security for the transfrontier commuter would in principle be covered by the country of employment and taxes levied by one of the two countries (residence or employment) with partial rebate to the other country according to keys established at Community or bilateral level with provision for this rebate made in a general context of "compensatory balance" or "profit and loss account",
- 8) employment conditions would be guaranteed by the regional or national authorities and by the different social partners (and economic) of the country or the region of work in the same manner as for other national or resident workers; in the same manner his/her wage would be on the one hand guaranteed by the same authorities and partners whether by way of collective conventions or branch agreements, in equal proportions, at the level of remuneration payable to nationals

or residents. On the other hand this wage could be used or saved in the country of employment as in the country of residence by free decision of the transfrontier commuter also in accordance with free capital movements without exchange control limitation,

- 9) the purchasing power of the transfrontier commuter in the form of wages, income or social security benefits would, in the event of exchange fluctuation between the two monies concerned, would be assured by the country of residence in various ways e.g. "compensatory wages" taking account of tax or rebate abovementioned at 7,
- 10) the country of employment will be responsible for the various forms of vocational and continuous training for the transfrontier worker and his children wherever this training takes place.

These elements of definition or statute which have to be fairly complete and which in the first instance describe the principal parameters concerning the transfrontier commuter in terms of space, time and economic dimension give rise in the second place to problems of taxation and social protection. In this connection in the absence of adequate European integration or at least of sufficient economic and political uniformity, note must be taken of the diversity of existing solutions in the various frontier regions. At tax level, taxation at source seems the more usual. There then remains the entire problem of compensation or rebate by the levying State - whether of residence or employment - to the other State, which is responsible either for home infrastructure of the transfrontier commuter (including school or social cultural infrastructure) or for infrastructure relating to vocational training etc.). The France-Genevan solution established by the French and Swiss (Genevese) governments might, within the perspective of "compensation for receipts and expenditure" or from the optic of cost and profit, might resolve the dilemma (how and by whom should responsibility be taken for transfrontier commuters in all the regions located on the borders of Member States and third countries); in this case the country of residence, France or rather the French frontier communes receive back nearly half (42%) of taxes raised by the country of employment, the canton of Geneva, on the wages and incomes of the transfrontier workers.

It seems clear, however, at the present time, and this was verified in all frontier regions in the course of discussion with interested parties or the organisations representing them - professional or trade union - that the problems most affecting the transfrontier commuter are guarantee of job and vocational training. Some comparative statistics confirm in fact a more marked fall in employment for transfrontier labour than for native or resident labour.

3.3.2. Social and fiscal options of this definition

If the long list of possible factors of definition abovementioned may be used to form a joint basis for future Community regulations or bilateral agreements, there are still two important comments, one on social protection of transfrontier commuters, the other with regard to discrimination, including taxation, of which they are sometimes the subject. It must be noted above all from the analysis of the social situation of transfrontier commuters by way of existing regulations that the benefits

they receive are a combination from the two different national social security systems. Now each system is consistent and its components (social security, social benefits, right to work, etc.) are complementary. If one transfers some elements of one such system into another system, there is no assurance that the guarantees offered to the interested party will be consistent nor will equality with other residents of the country of residence nor with other working population of the country of employment be maintained for certain. Differences in national systems usually show up when looking at the past history of the various types of benefit according to country. Different reasoning and different concepts then appear more clearly. Only social integration within a flexible and generalised European system could correct these problems.

Added to this analysis of system, as it might be called, is a further analysis, which is quite as important; the general responsibility for the transfrontier commuter and his family by the country of employment according to the principle that, at least in the present and in the near future, work is at the basis of rights to social security. To this social security, comprising, a fortiori for Member States and for third party States the 9 basic items of Standard 102 of the International Labour Office, will be added, almost automatically, a guarantee of job, wage and training at least equal to those of nationals or residents of the country of work of the transfrontier commuter. Still at social level, the transfrontier worker should be able to choose the most favourable solution - either in the country of work or residence - for his legal (payment of contributions or taxes) or economic integration (contribution of labour either skilled or abandoned by others) within the transfrontier region in question.

If, at least in principle all discrimination is avoided in tax agreements between nationals of signatory Member States, there are on the other hand sometimes explicit new forms of discrimination, disguised or latent, with respect to residence or type of employment. Now the Court of Justice of the European Communities has affirmed that, so far as these effects are concerned, discrimination on residence leads to the same result as that based on nationality : both impede the free movement of workers or the free allocation of services. The provisions of the Rome Treaty and the legal judgement of the Court are therefore set aside. In order to nullify various kinds of taxation discrimination - differences in treatment also appear at the level of social security for these same transfrontier commuters - it would be desirable either to select new Community regulations for commuters, which would ban explicitly all these new forms of discrimination or unequal treatment or to establish bilateral agreements with reasonably uniform general texture at least with regard to tax or social provisions on transfrontier labour dependent for residence and work on two sovereign Member States.

It is also clear that the case of transfrontier commuters in Europe calls for on the one hand a Community attempt to apply more strictly the various articles of the Rome Treaty and on the other hand problems of implementing, by way of the various mechanisms, of promotion of integration or uniformity. Whether at taxation or social level, transfrontier labour is still subject to discrimination or sometimes straightforward difference of treatment; even bilateral agreements still allow, explicitly or otherwise, for the existence of such differences or discrimination.

Analysis of social "administrative practice" on this form of labour in some important transfrontier regions or along certain frontiers shows still more the cases of inequality of treatment. Lastly a number of tax and social case-studies of transfrontier commuters indicate the complexity and manifold difficulties to be overcome before achieving total tax and social equality, whatever the regions or frontiers considered.

Having regard to affirmation or insinuation that European Community interest in problems of transfrontier commuters is not in proportion to their number (currently 250,000), it is easy to turn the argument (argue to the contrary) by evincing surprise at the low level of this number by comparison with all the urban concentration stretching along the thousands of kilometres of frontier of Community Europe or of Europe outside the Community; this a partial indication that the areas or frontier regions continue to be places of confrontation, conflict or of just pure ignorance or indifference; alternatively one may stress the role of catalyser demonstrated by transfrontier labour in relation to the inadequacy of European integration and to the appearance of trans-frontier regions, at least at "functional level".

4. Outline solutions

In this brief "resumé of a summary of the final report" we shall indicate in broad outline the principal answers it might be feasible to envisage to all the problems encountered by transfrontier commuters in Europe and which the sketched results indicated in the previous paragraph could foreshadow.

4.1. At statistical level

A first aim of this study has been to provide fuller economic and social information on transfrontier commuter flows. With this in view, the first step for the statistician is to collect data either by assembling that which exists or by generating new data. In the first instance, there has been no lack of problems; figures for transfrontier workers for a single frontier region often varied from country to country and even within the same country according to administrative department. The nomenclature content and use also vary between countries. In the second case abovementioned, that of data generation, these refer to enquiries made with transfrontier commuters in the regions of Lille, Basel, Geneva, for instance by way of representative spot checks.

Without going into detail on the general statistical difficulties and solutions already envisaged by the Statistical Office of the European Communities at Luxembourg, it is enough to note that there are several ways of obtaining better information with regard to transfrontier commuters. The first would be for each country to include separate parameters for transfrontier commuters in its census sheets when conducting census of the resident and working population; since European Member States are agreed on a joint date for the next "European" census to be held in 1981, it should be easy on that occasion to propose that all countries concerned introduce the same questions on transfrontier labour; Switzerland and Austria could also ask the same questions for their own respective census (Switzerland in 1980).

The second possibility for better statistical information on transfrontier commuters would be to prepare regular data thereon in all countries or regions concerned with the frontier flow either by way of card indices brought up to date continuously or at least by way of sufficiently accurate spot checks to be representative. To this end the Community Statistical Office in Luxembourg would use as a basic Regulation 311/76 of the Council of 9 February 1976 on the drawing up of statistics on foreign workers. It would suffice to make specific provision for including transfrontier commuters within the application of this regulation.

What should these statistics on transfrontier commuters include? On the one hand they would have to collate total workers and first employment on the territory in any one year; on the other hand to collect up to date information on places of residence and work, sex, age, branch of activity and social professional category. All these population and economic figures would conclude with an age pyramid of frontier commuters, of cross reference tables with several variables providing valuable economic information on working population and employment structures in general for each transfrontier region.

With regard to the scope and cover of these statistics, it would be indispensable to adopt the definitions proposed within the framework of this research - in particular the definition of the transfrontier commuter - and comparable nomenclature particularly classifications of branches of activity and social and professional categories. With regard to classifications it may be recalled that many countries, especially Community countries, are in course of subdividing their working population according to international classification type, by industry, of all branches of economic activity (1) (CITI-1968) and international classification type of professions (2) (CITP-1968) finalised by the United Nations and the International Labour Office.

Lastly, in relation to periodicity and acquisition of data, there is a need to obtain statistics at least once a year (annually) and derived from existing establishments. Indeed, transfrontier commuters are for the most part wage earners and statistics of business concerns are those, which, apart from indications derived from spot checks, are the most appropriate for information on this category of worker.

To conclude, it should again be mentioned that it would be desirable to collect and to analyse regularly statistical data on transfrontier commuters to be able to study evolution trends and to carry out enquiries with transfrontier commuters themselves in order to have available a group of factors as complete as possible regarding their movements throughout Europe.

(1) for fuller details, see United Nations : Statistical studies, series M, No 4, rev 2 (New York, 1969).

(2) for fuller details, see I.L.O. International Classification type of professions, revised edition, 1968 (Geneva 1969).

4.2. Outline solutions at economic level

The statistical approach to the frontier phenomenon abovementioned has led to a kind of restatement and general description comprising all Western Europe. This geographical dimension corresponds to a new EEC guideline of interest not only with regard to its internal but also to its external frontiers. The real movements of frontier workers also correspond to this trend since the two main European countries calling for transfrontier labour are Switzerland (nearly 100,000) and the Federal Republic of Germany (75,000).

4.2.1. Transfrontier economic integration of transfrontier labour

The main problem revealed by statistical analysis of frontier flows is the question of their economic or structural aspect. Is transfrontier labour just supplementary labour, subject to economic recession in recruiting regions or countries or is it integrated within employment structures of those same regions or countries to the point that they need it whatever their economic situation? Mainly historical data, where present, and demographic and economic features of transfrontier commuters in Europe show that there are two categories of transfrontier regions: those where transfrontier commuters are inserted and integrated at branch or economic sector level of concerns by way of their qualification or their specialisation to the point where they are part of the structural labour supply of the host country or region subject only to structural or technical unemployment and those where the graphs of transfrontier flows indicate zig-zag movements subject to economic circumstances and where the transfrontier workers are treated as purely supplementary to meet passing insufficiency of labour frequently unskilled. It is above all in these latter - transfrontier - regions where transfrontier commuters or their representatives claim a better job guarantee or vocational training, often the basic condition of the job in question.

The existence of a transfrontier movement between two districts separated by a frontier creates one of the two basic options for economic solution according to whether this movement is economic in character indicating economic imbalance between the districts concerned or whether it is considered as a structural functional factor of a region comprising the two districts in question. In the first instance the problem to be resolved is that of economic imbalance between the two districts and the maximal solution of this problem would be the disappearance of the transfrontier movement; in the second instance the problem for solution would be the disturbing impact of the frontier on regional development of the region, which it divides and the problem solution would be to maintain or intensify the transfrontier movement.

Clearly the first option introduces two types of convergent measure, one seeking to keep labour behind a frontier and the other seeking not to call upon non-resident labour; the result is planned increased cooperation at national level; the second option requires a guided transfrontier regional policy to modify the disturbing impact of the frontier and to extend labour exchanges as well as exchanges of goods and services; this assumes regional transfrontier cooperation, which is at least real even if not institutionalised.

Two comments are necessary before going further with transfrontier economic cooperation or, consequentially, in connection with restoring regional economic balance on either side of frontiers. The first is that implementation of a regional policy within a single country is the more easy to achieve because it represents a group of combined policies and institutions (1) assuring satisfactory mobility of the factors of production in particular the labour factor whereas the unification of regional policies between States encounters various obstacles among which are : accountability not so much of aims as of realisation mechanisms (in particular the problem of employment); lack of uniformity of powers of decision and action (cf. degree of decentralisation; extent of delegation of powers; autonomy of decisions); planning of infrastructure and equipment (cf. continuity effects); the role of multinational concerns; and lastly dimensional or scale effects at political, economic and cultural levels.

Less than at social level, but still considerable, the unification of economic regional policies is subject to positive and negative interactions of different national economic systems or at least of their guidelines and methods. A valid interlocking, indeed economic integration, is therefore necessary since these national economic systems are open and capable of mutual adaptation. This is the price of economic and monetary union. The frontier regions, seen from this perspective, are the first to be put at risk by this union or disunion and therefore the transfrontier commuters as well. For this reason a regional policy in frontier regions (sometimes treated as peripheral in some countries) which is only national has little chance of success. Only concerted action and cooperation across frontiers, at least functional in form, could achieve economic balance in most transfrontier regions, not due to concern for parallel activity or even aggressiveness but undertaken in a spirit of complementary character on both sides of frontiers and above all with regard to the quality and intensity of trade flows of all kinds including transfrontier commuters. The role of all European institutions is capital in this perspective of industrial redeployment of transfrontier regions in rediscovering the advantages of a spatial approach which is at present too prejudiced by history, with States not naturally so predisposed being sometimes convinced that transfrontier cooperation may diminish their national sovereignty as if sharing and cooperating were a loss of responsibility. The transfrontier commuters would have everything to gain from the emergence and development of this transfrontier cooperation, supported by European institutions but still sometimes greatly neglected by States.

Within this optic of transfrontier cooperation, the role of European institutions and the basic role of the people concerned as well is very important. Indeed, this cooperation is not spontaneous, taking account of the manner in which minds have crystallised as a consequence, among other things, of two world wars. While the Council of Europe brought up to date in 1978 a legal instrument for this cooperation, the European Communities, having regard to their financial means and to their new regional policy guidelines "global and active" in which frontier regions

(1) L. Davin - Transnational regional economy : illusion or hope. Frontier regions and urban concentration within the EEC. ISEA Numbers March-April 1971.

have a leading place, may grant or will be able to grant specific aids to these regions, directly if the "quota free" principle is agreed, indirectly if their aid passes through Member States and complements the regional measures of the latter. From the optic of economic imbalances which tend to grow worse in frontier regions - the flows of trans-frontier workers are only an indication - these Community aids, direct or indirect, would support combined intention, through joint trans-frontier planning, between responsible authorities and interested partners, intended either to correct the lack of infrastructure or to reform out of date productive equipment or to install technological changes or to invest in secondary and tertiary level to restore a sufficient number of transfrontier jobs and above all to reestablish economic balance in each transfrontier region and between peripheral transfrontier regions or central regions. Within this optic the major task is to integrate or to correlate increasingly both sectoral and regional policies. The "quota-free" contribution intended for frontier regions would assist both this "self appraisal" and these "joint tasks" across frontiers while taking heed of the features of each "sub-region", and should in the first instance assist the transfrontier workers. Possibly there should even be pilot schemes of transfrontier cooperation, global or sector, in particular regions with the support of the EEC and the States concerned designed to achieve, at a transfrontier regional level, a further measure of social and economic integration with the participation of all the interested parties. This would also correspond with the spirit of the Rome Treaty and, while awaiting economic and monetary union, would avoid by way of appropriate measures any worsening of economic disturbance and imbalance affecting the frontier regions and dragging them into a general peripherality.

4.2.2. Variations in the exchange rates

Variations in the exchange rates (1) : this phenomenon with economic or social repercussions according to the "schools of thought" has such implications at social level, for transfrontier commuters in particular, that the European institutions should make proposals on the matter rapidly to the States concerned. It is evident that the impact of fluctuations in the exchange rates on levels of wages and salaries, allowances or compensation and on purchasing power all affected thereby is substantial. It is also to be noted that the consequences of monetary variation on social security benefit payments are important and very complex; for the transfrontier worker, the "monetary risk" becomes at once a "social risk".

The central problem for transfrontier workers, retired or still working, which is raised by changes in rates of exchange, is to maintain their purchasing power in general and above all with regard to their country of residence. The maintenance of this purchasing power is directly contrary to the principle of equality of treatment between national and migrant workers put into force by the Community regulation of 1968; application thereof is a sensitive matter for France. The "collective"

(1) From 1960 to 1976, with index 100 in 1960, rates of exchange moved respectively to 175 and 57 between Germany or Switzerland and France; 152 and 65 between Germany and Denmark; 130 and 77 between Germany and Belgium; 135 and 74 between France and Italy as between France and Belgium.

aspect of this last principle is in opposition to the individual optic of the maintenance of purchasing power. In addition to this central problem there is a further problem, in some measure technical, of calculating or recalculating pensions in relation to exchange rate fluctuations; in theory Articles 51 of Regulation 1408/71 and Article 7 of Regulation 574/72 amended by Regulation 2639/74 would furnish a reply to this "technical" problem. However, there are many difficulties in applying these regulations, according to the transfrontier workers themselves, as instanced by the new quarterly scales of exchange rates in relation to the first fixing of pensions and their recalculation.

What types of solution are to be envisaged at European or bilateral level to meet the social consequences of recent or current monetary fluctuations in Europe? These solutions must all guarantee the purchasing power of the transfrontier commuters whether with regard to their wages, their pensions or social security benefits. This guarantee is moreover only the logical consequence of the EEC regulations on the free movement of workers in Europe and the free movement of capital. Based on the aim of a guarantee for purchasing power, the following solutions, which are still only proposals, which can be mixed as required, are advanced in order of increasing difficulty of application and basic complexity.

a) The "corporative" or "explicit" solution would be to profit from the consequences of exchange rate variations, which are not only disadvantageous for some transfrontier commuters but also beneficial for others by creating a "compensation fund" fed principally or exclusively by the transfrontier commuters themselves. This fund would be a kind of "profit and loss" balance. There would be plentiful objections mainly from transfrontier commuters to this solution; among other reasons because it will be held that the transfrontier commuter runs more risk than other workers; the number of young people (85% under 30 at Geneva for instance) in this type of labour shows this fairly clearly.

Resembling this "corporative" formula and designed to acquire better information on the incomes of transfrontier commuters as well as to counterbalance the weight of charges they represent is the project, still very vague, of certain French authorities to ensure that the foreign employers of transfrontier workers pay their wages to agreed banks in France where they reside. The project is opposed unanimously by the transfrontier workers and opposed totally by the Swiss employers.

b) The so-called "direct payments" solution, which only concerns payment of incomes by third countries with strong currency, is already applied in most cases within the EEC according to Annex 6 of Regulation 574/72. The country of work (employment) would in this case pay all social security benefits and all payments required according to its labour legislation. A criticism of this proposal has been made already but could be discarded if there were real bilateral administrative assistance: there is a lack of information or serious awareness on the part of the employer country.

c) The solution of "exchange compensation" or of "rectifying coefficients" (weighting coefficients).

Belgium and France were the first countries (1) to use this weighting technique, as from 1945, applicable to income erosion following exchange rate fluctuations and even to different wage rates within the two countries. This compensation or these "weighting coefficients" were adapted or amended on several occasions (e.g. exchange compensation for wages alone and/or social security benefits), in fact withdrawn or replaced by "temporary fixed allowances". The wages ceiling at which the compensation or the weighting coefficient was applicable for the transfer of wages rose in this way from : FF 350 in 1946 to FF 900 in 1969 .. to FF 1950 in 1974 .. and to FF 2300 in 1977. An objection to this practice of compensation, which has always been provisional in character, is to maintain that it is easy for a worker residing and working in France in the Franco-Belgian frontier region to choose to reside in Belgium and to request benefit of French compensation and Belgian allowances. A French regional labour Office recently informed persons having crossed the frontier with this idea in mind (?) that the French employer was not obliged to amend the original working contract by applying a weighting coefficient; nevertheless is this not an impediment to the free movement of workers?

d) The solution of "calculation in units of account" both for wages and pensions.

This solution would certainly guarantee fairly accurately the income of the transfrontier commuter, both at work or pensioned. However, since an accountable currency results from a weighted average of various currencies, those currencies which were heavily weighted would ensure the upward trend of the accountable currency without forgetting moreover all the distortion created by calculations based on an average.

In this basket of currencies from which the European unit of account is calculated there could also emerge a European zone of stable money; this would solve in the main the inconsequential exchange rate variations at the present time; stability would result from the creation of a more flexible monetary snake, based not on pivot rates but on real money rates due to the condition of the various economies and to balances of payments.. The transfrontier workers would have all to gain from this exchange rate stability; meanwhile the technique of calculating wages in units of account would move towards stability by way of weighting between European currencies.

(1) The French law of 9 March 1946 instituting a 35% exchange compensation up to a ceiling of FF 350 a month for 6 months; to this end the law of 13 July 1948 created a compensation Fund, fed only by employers established in the French Zone and users of frontier labour (Fund liquidated September 1949 with FF 1000 million written off by the national budget; Franco-Belgian agreement 6.12.49 giving Belgian frontier workers "weighting coefficient" of 27% : French State (9%), Belgian State (6%), employers (12%); from 1951 coefficient varied by activity branch and even by sex; Franco-Belgian protocol, September 1969, amended weighting coefficients.

e) The solution of "continuous adaptation" or "graduated levels".

By this means, the wages and above all the pensions would follow fairly closely, regularly or by graduated levels i.e. when a threshold was reached (10% for instance), the cost of living and wages trends. The principal problem with this formula would be to know who would take responsibility, financially and administratively, for these continuous adaptations; doubtless the burden would not be as great as one might think at the start since, after two decades in Europe, it is clear that countries with sharp rises in price and high inflation are obliged, in order to maintain the purchasing power of wage earners and pensioners, to increase more strongly than other countries, with moderate or low inflation and with strong currency, the total of wages and pensions so that finally the "wastage" for transfrontier workers with a job or pensions from countries with weak money is much less than one might suppose. An analytical and comparative study of indices of pension trends by country of employment and pension adaptation in the country of residence, taking account of fluctuations in exchange rates, would supply very interesting information on the abovementioned hypothesis of "low level wastage".

f) The solution of "compensation mechanism".

This compensation mechanism would be on a Community basis i.e. its financing would be assured, not by the transfrontier workers themselves but by European institutions such as the Community Social or Regional Funds, somewhat on the lines of the ECSC Levy system. These institutions, with support from a compensation Fund, would pay "compensatory allowances" to transfrontier workers, whose incomes were seriously affected by exchange rate fluctuations; a ceiling would be fixed. This system of a compensation fund exists already e.g. at Geneva for some international organisations where wages and pensions of officials have suffered greatly from the fall of the dollar in relation to the Swiss franc.

Having regard to the question of budget amounts, it is already possible to reply that these would be smaller than might be thought, for the statistical and economic data mentioned in previous chapters have shown the general fall in and the small number of transfrontier commuters belonging to countries with strong currencies and employed in countries with weak currency. Clearly there would be an income ceiling, which would reduce accordingly, for wages or pensions, the total amount payable from the compensation Fund. The latter, providing an eminently Community and European solution, would furnish the answer to the political problems raised in the following paragraph.

Concluding these lines on possible solutions to variations in exchange rates, it is clear that only a stable and strong economic and monetary union or at least a zone of important monetary stability would provide an answer to the continual problems of purchasing power wastage undergone by a number of transfrontier workers due to the erratic behaviour of some currencies. It cannot be denied however, while awaiting this economic and monetary union, that it is a delicate matter for the Community to recommend a general policy of mechanisms intended to compensate the effects of exchange rate variations on prices and incomes; it would not account for movements in exchange rates necessary to adaptation processes between

national economies insufficiently integrated nor would it observe (but how far should observation go?) Article 48 of the Rome Treaty guaranteeing equality of treatment between nationals and non nationals.

4.3. Outlines of tax solutions

In order to clarify the tax problems affecting the transfrontier commuter, a comparative analysis has been made of very varied real tax situations to furnish a reply - but should one reply? - to the question of knowing if the transfrontier commuter should be (not if it were better that he should be) taxed by the country of residence or by the country of income and how will he avoid the discrimination which still affects him in the field of taxation?

4.3.1. Regarding place of tax

In the long term, the place of tax of transfrontier commuters does not matter if their tax situation is unaffected thereby. This is an abstract view since it has been seen that divergences between national tax laws create differences, inequalities and discrimination. The problem then is to align the national tax laws of Community countries to draw closer to tax uniformity or to accept that divergence is inevitable and to shield the special interest of transfrontier commuters from its negative effect. The choice of one or other solution depends on the evolution of Europe towards unity or the maintenance of different adjacent States, jealous of their sovereignty, above all in matters of taxation.

The procedure to be followed for taxation in the country of residence would allow for awareness of the particular skill of the transfrontier commuter and the level of his remuneration by the responsible tax authorities of both countries concerned. It would appear appropriate for the situation but simplification in the case of France would be desirable. If it results in just taxation it complies with a spirit of fairness. Administration help, where it exists, would play a decisive role in cases of this kind.

At European level, as at regional level, the choice of a single criterion of attachment would be desirable : either the place of residence or the place of work. The legal arguments advanced to justify one or other criterion have been explained without it being possible to pronounce finally. However the objective criterion is more severe than the personal criterion. Residence is a fluctuating concept, badly defined in tax law; its qualification owes much to empirical method. Can one for instance be sure that the person crossing the frontier weekly to work in one country has legally chosen to reside in the other country? It cannot be doubted in tax law that procedure leading to tax in the country of residence begins by way of tax exemption in the country of work; this stresses the exceptional character of the transfer of the power of taxation from the country of employment to the country of residence; this choice would obviously be assisted if the Treaty of Rome were to evolve toward integrated tax sovereignties.

The choice of making the transfrontier worker pay tax at his place of work, is also in line with the current trend to pay for social security from taxation. This indicates how in the long term there could be

agreement for the country of employment to impose taxation as it assumes responsibility for social security. .

The suppression of the frontier zone is highly desirable. It is the reason why two national tax systems are applied and sometimes rules creating inequality.. the frontier zone does not correspond to the variety of real tax situations. It tends to engender false declarations of residence; in the case of France and Germany it is quite inefficient. Suppression could be explicit or implicit.

4.3.2. Regarding national tax divergencies

It must be stated at once that this problem is virtually insoluble so long as there is no European tax integration. At national level, bilateral conventions govern tax relations between States. These conventions indicate a compromise acceptable to both parties. On legislation, each State remains sovereign within territorial limits. Divergencies between separate national legal systems cannot therefore be avoided. At least one can avoid this fact creating a prejudice at the expense of trans-frontier commuters. The negative effects of different national legal systems on the tax situation of individuals should be avoided as far as possible while awaiting European tax uniformity, either by inserting clauses in the conventions stating that individual interests will be preserved, especially by avoiding retroactive application of more severe tax laws, by amending the convention in question (case of Belgium for instance and of its nationals, who work in Germany); or by specific agreements governing the tax situation of transfrontier workers.

4.3.3. Regarding tax rules

Having regard to tax rules in the strict sense, divergencies between national legal systems also account for differences in tax treatment. In the present state of international tax law, governed by bilateral tax conventions, improvements in quantity and quality in frontier tax rules on behalf of greater equality could be sought either by amending national tax laws, which would be more aligned to reduce existing differences with regard to tax remissions or by way of bilateral or multilateral agreements, which would regulate the tax situation of transfrontier commuters through accountability between different national social and tax rules, for instance in the case of Belgium and Germany.

The prohibition by way of agreement of only obvious discrimination gave rise to fears of a risk of hidden discrimination. Inequalities and even a case of hidden discrimination were discovered when real tax situations were shown. They were due mainly to residence in a country other than that of work. The classification of residents and non-residents substituted for that of nationals and foreigners did not eliminate the risk of discrimination : this risk becomes one of hidden discrimination.

It is unnecessary to have recourse to uniform Community laws to obtain greater equality of treatment between transfrontier commuters on taxation. This can be achieved by aligning national tax laws with regard to tax remissions both as regards the nature and the volume of remissions authorised by law. The same result may also be obtained through bilateral or multilateral conventions. The effect of the suppression of the frontier

zone on the coexistence of two general sets of rules and on special sets of rules has been considered previously. Tax rules and social rules cannot be separated and when the latter have a negative impact on the financial situation of the transfrontier commuter due to applying two divergent sets of national laws, the application of one single national set of rules should be recommended : this is as true for taxation as for social security.

4.3.4. Regarding inequalities of treatment or tax discriminations

Procedure leading to taxation in the country of residence, if this tax place is maintained, should be guided by one concern only : in imposing tax care should be taken to avoid double taxation and to satisfy the principal of fiscal justice. Since a passport (or equivalent) is no longer required, this tax procedure enables the status of the transfrontier worker to be established and the amount of his remuneration to be certified. It is therefore indispensable so long as the frontier continues to exist both at national level and at regional, Community or European level. Taxation procedures in the country of residence are linked closely to administrative assistance and as a factor in improving this assistance its role is not negligible particularly to render tax transparency more real. Moreover, as already stated, a correct application of the rule of effective tax rate depends also on efficiency of administrative assistance.

In all tax conventions, there is an equality clause to prohibit obvious discrimination and thereby to comply with the Rome Treaty. Its inadequacy has been indicated. It does not prevent other sources of discrimination and this has been shown in interim reports. One must therefore envisage ensuring that the jurisprudence of the Court of Justice of the European Communities is effective in the matter of bilateral conventions : obvious discrimination if prohibited and all treatment leading to an identical result, as a result of hidden discrimination. What is valid at Community level should a fortiori be valid at national level.

Having regard to the rule of the effective rate, which some consider to be a principle of international tax law, inserted in all bilateral tax conventions, acknowledged as an elementary rule of fiscal justice, all which contributes to its efficient application should be encouraged, all which leads to its abuse in practice should be prohibited.

4.3.5. Regarding costs and profits distribution

Whatever principle is adopted with regard to place of taxation, it should be remembered that both the country, region and local authority of residence and the country of employment have infrastructure burdens to be borne with regard to the housing of the transfrontier worker or to his job. A unified distribution of taxes is desirable here whether levied at place of residence or source of employment. The question is asked whether there should be a generalised reconveyance of a proportion of these taxes in frontier regions from the taxing country to the other country (e.g. 50% for it will always be difficult to produce an exact valuation of the public cost of housing, of employment). This principle of reconveyance, apart from the advantages of fiscal receipts for the

country or region or local authorities who do not levy the taxes, would create a factual solidarity in the transfrontier region and above all certain possibilities of economic balance would be restored, without forgetting the psychological benefits for the transfrontier workers themselves, who are sometimes accused of enriching a foreign country. This shows that stress should once again be put on the necessity for regional cooperation across frontiers. This new procedure - reconveyance - would surely be an improvement upon a formula for double taxation by each country concerned - residence and place of work - with deduction by one country of the tax levied in the other country for each transfrontier commuter liable for tax.

4.4. Outlines of social solutions

Firstly it must be recognised that the social security cover for wage earners within the EEC is quite satisfactory; whether by way of national laws or Community regulation, migrant and transfrontier workers derive direct benefit despite the variety and complexity of their situation. Undecided are third countries such as Switzerland, which has not the same benefits in social security as the Nine, neither for migrant workers nor transfrontier workers nor indeed for its own residents. No doubt this is only a question of time for there is a positive trend in Switzerland towards generalised social security covering all basic risks for each individual.

4.4.1. The consequences of different systems of social security

Two comments or series of comments are necessary with regard to social security for the transfrontier commuter. Some are general, others concern problems of one or other branch of social security. Generally, it must be noted that simple and comparative analyses of the various systems of social security in Europe and research into real social conditions of the transfrontier worker show that the impact or overlapping of two systems have unfortunate consequences for transfrontier labour.

As already shown in interim reports, it is not so much the relatively small differences between the systems, which should be stressed, but rather the complications and difficulties, indeed discrimination, which hit the transfrontier worker, because the benefits he receives, or their calculation, derive from the combining of benefits according to different national sets of social security rules each of which is a consistent whole leads to a mixture of elements from the two, which frequently involves delay and is sometimes even unfair. But it is precisely the consideration of the special situation of transfrontier commuters which results in the overlapping of several laws (e.g. sickness benefits in the country of residence). This is the case for Alsatian transfrontier commuters contributing to the German social security, which does not provide for exemptions for benefits and which applies a 25% tax (ticket modérateur) on French social security benefits whereas other Alsatisians benefit from a special rule whereby they only have to pay 10% contribution. Another example, which is much more difficult and which raises the problem of the manner of social security financing as a whole, is that of Danish transfrontier workers in the Federal Republic of Germany; indeed the German employers quite properly deduct social security contributions from the wages of their German employees as required by

law while the same transfrontier workers pay for social security a second time in Denmark by way of taxation. In Denmark social security is "fiscalised". Doubtless in course of time and according to countries social security will be fiscalised (paid for by taxation) but while awaiting this general development, the German-Danish example shows the difficulty of collaborating with two systems of social security founded on very different principles.

4.4.2. The basic principle of responsibility by the country of employment

Always from a general point of view, the basic principle that one must generalise in any future statute of the transfrontier commuter as happens in bilateral or multilateral conventions also affirms that the country of employment provides social security for the transfrontier worker, whatever branch of social security involved; it is the labour laws of the same country which will apply to the transfrontier worker. This principle of general responsibility assumption by the country of employment is based on the labour criterion as the source of social security benefits; of course it is feasible to choose other criteria, such as residence or nationality since the principle abovementioned could be modified. The essential consequence of this principle is found not only at the social level (clarification of all situations and for all branches), but also in resources since the country of employment alone would assume responsibility and cost, directly or indirectly (through the intermediary of the country of residence) for all social security benefits, in kind and currency, granted to the transfrontier worker and to his family. This responsibility assumption could take two forms, either the country of employment would repay the country of residence for all benefits paid by the latter or (doubtless not such a good solution) it would remit a proportion or the total contributions paid by the transfrontier commuter to the country of employment. We should recall once again that at Community level, this principle of generalised responsibility for social security by the country of employment (with social assistance, in all its forms, remaining the responsibility of the country of residence) exists to a great extent subject to three exceptions still in force at the present time :

- the transfrontier commuter and, in some cases, the members of his family, have also a right to benefits in kind in the country of employment;
- the unemployed transfrontier commuter receives unemployment benefit from the country where he resides and at the cost of that country;
- workers in France receive family allowances, for members of their family residing in another country, allocated in that country and paid for by France.

This principle of social security cover for the transfrontier commuter by the country of employment would run counter to certain current regulations and administrative practices; it would also run counter to the interest of transfrontier workers, who, in many regions, are always on the look out for the best social security and tax solutions in the country of employment or residence according to the circumstances. This principle would have the benefit of clarity but not of flexibility; everyone knows of the many complex situations to be found in the frontier regions.

Lastly this principle could apply to wage earners and to the self-employed; the latter also pay their taxes at source contrary to many transfrontier commuters. However it is very obvious that transfrontier administrative difficulties arising from the general application of this principle will not fail to present themselves to all States, who recognise it (accumulation and level of pensions; periods of insurance; types of invalidity; establishing rights; increasing pensions, etc..). But on the evidence available, this principle if accepted would initiate greater social uniformity in Europe.

4.4.3. The consequences of responsibility assumed by the country of employment

When one thinks of special problems linked to one or other social security branch, there are also solutions drawn from the general principle laid down in the previous paragraph. A short non complete list of these problems, suggested in interim reports, can be given : differences between contributions (country of employment) and benefits; part time or temporary work; situation of self employed by comparison with transfrontier wage earners; transfrontier undertakings; benefits in kind and in currency for the transfrontier commuter and his family at place of employment and place of residence, etc.. Whatever branch of social security analysed, the serious problem of resources, of compensation for resources, would be solved by the principle abovementioned.

The solution of these problems will depend on the precise reply to the question : what benefits should be granted to the transfrontier commuter and by which country? Analyses and interviews indicate the general principle of the reply : with exceptions to be justified : the principle agreed is that the country of employment should be responsible for social benefits, either directly or indirectly at least in so far as social security and job are closely connected. One could imagine other links, not with employment but with nationality or residence; in the latter case, some experts have already suggested a "guaranteed minimum income" for each resident, with or without employment.

For this reason, while assistance benefits would always remain the province of legislation in the country of residence, the right to work, social security contributions and benefits would derive from legislation in the country of employment. In the case of benefits in kind, they would be granted according to legislative provision in the country of residence or employment with repayment according to the legislative provisions of the country of employment (the responsible country) but according to the scale of rates in the country granting the benefits in question (1). Like

(1) The problem is most delicate to solve in view of fraud resulting from variety of rates and benefits : a first possible approach would be to leave the choice to the transfrontier workers (this happens already) and also to persons insured on their own account (this is not yet the case) as between the country of residence and the country of employment whichever country pays the benefits.

benefits for partial or total unemployment, pension benefits would all take account of legislative provisions of the country of employment. For affiliation to a trade union or a protective association, the institutions of the country of employment would also seem the most appropriate.

The solutions, which depend on uniformity of national laws, are in particular the following. On exchange rates, in the absence of European monetary union, it would be desirable to have agreed variations in currencies within precise brackets. Mutually consistent advance in time and volume in the context of trends in prices, wages would also assist in solving frontier problems. There should be uniform conditions of grant and volume for benefits in currency to avoid differences between currency benefits from the country of employment and the cost of living and assistance benefits in the country of residence; this would meet the wishes of the transfrontier commuters.

For all proposals for solution to problems coming from various levels, there should be attentive consideration to insure against their being the cause of new discrimination. Account should also be taken of the fact that a large number of transfrontier workers do not only suffer drawbacks but, on the contrary, derive advantage from working in an adjacent country (higher cash benefits, higher wage levels, better working conditions, better working morale, etc..). Indeed, as soon as there is disadvantage for a given group of transfrontier workers, there is always equivalent advantages for the group of transfrontier workers in the opposite direction, where it exists (e.g. the loss of income by transfrontier workers in France corresponds to a higher income for French transfrontier workers in adjacent countries).

As long as uniformity between national laws is still as distant a prospect as it is at present, the solution of these problems will be found more at regional or national than at Community level (European level) (e.g. compensation payments for loss of income due to exchange fluctuation granted by the country of residence of the transfrontier commuter).

4.4.4. Other "territorial" and "administrative" solutions

There are still delicate questions arising from too strict an application of the principle of territorial sovereignty. The States - including Switzerland - would have every interest in abandoning this principle in part in favour of the wider principle of a measure of solidarity (which would also be more profitable); economics here point the way to social benefit. If we take the case of total unemployment, which is the more difficult from the angle of territorial sovereignty, the totally unemployed transfrontier worker has no further legal tie with the country of employment and since he does not reside there has no general right to full unemployment benefits even if these are clearly higher in the country of employment and even if the transfrontier worker pays in consequence much higher contributions than in his country of residence (this happens with Italian transfrontier workers in Switzerland). The solution would then consist in applying to transfrontier workers the provisions of Article 71 of Regulation 1408/71 namely :

"a worker, other than a frontier worker who is partially, intermittently or wholly unemployed and who remains available to his employer or to the employment services in the territory of the competent State shall receive benefits in accordance with the legislation of that State as though he were residing in its territory; these benefits shall be provided by the competent institution;"

This solution would require information, concerted action and close cooperation between responsible administrative departments to create, maintain and keep up to date joint card indices of employment; the administrations could be those concerned with problems of employment, labour, social security .. in the average administrative units such as French départements, Swiss cantons, etc..

Administrative delays in paying social security benefits (pensions, allowances ..) due to the complex character of personal files of transfrontier workers caught between two countries could be handled in two ways. The first to meet the most pressing needs of the transfrontier worker himself would be for the country of employment or of residence to pay the benefits provisionally; amounts would be at least the minimum payable according to the law of the country of employment or of residence. The second way of correcting administrative delays would be for the responsible departments of the country of employment, with all necessary information about the country of residence, to establish personal files of transfrontier workers progressively or some time prior to claims becoming operative.

To reiterate, transfrontier card indices, based on administrative cooperation, would be useful in solving specific problems of transfrontier labour, while awaiting "a European social security record book (card)".

4.4.5. Cases of family allowances and currency (cash) benefits

The Commission has already tabled a proposal with regard to family allowances concerning a uniform method of payment of family allowances to members of the family residing in a country other than the country responsible. Equally in relations with France, family allowances should be paid in accordance with the legislative provisions of the country in which the right to benefit has been acquired i.e. according to the laws of the respective country of employment. In this context, care should be taken above all to ensure conformity with agreements on double taxation. It is to be noted here that opinions still differ (e.g. between Christian and Socialist Trade Unions) as to whether the children's allowance should be paid according to the law of the country of residence or of employment.

As to activating payments in cash and prior to adapting them to the general good, the "good" in question should be assessed in detail to take account of :

- the average amount of total wage income, by branch and by social-vocational category,
- the relation between social benefits and rewards of labour,
- the regional and national standard of living.

The European Commission appears to support also a regular adaptation of short term benefits. All social benefits, including unemployment benefits, should be updated in accordance with labour rewards (wages, salaries, fees etc.) possibly taking account of price trends. Two phases should be planned for implementing these proposals: a first phase would index benefits for the long term in accordance with wage trends at least once a year. The second phase would bring about annual adaptation of all short term benefits and long term too according to the trend in consumer prices; if the trend was too rapid, there should be additional adaptation. It is true that mandatory adaptations would render some governments apprehensive. These adaptations would compensate transfrontier commuters to a large extent for losses due to exchange rate fluctuation.

Still on the subject of cash benefits, members of a transfrontier worker's family should also have the benefit of choosing sickness cash benefits payable either in the country of residence or in the country of employment of the insured person; this would avoid differences between rules applying in the country of employment and the country of residence to social security contributions and the rate of individual contribution.

4.4.6. Representation and representative character of transfrontier commuters

Each frontier region is fairly individual in the foregoing respect. Some see the trade unions on the spot either in the country of work or in the country of residence - rarely the two working together - take responsibility for the special problems of transfrontier workers; in others groups, association, protective committees of interest or insurance groups deal with the specific questions of transfrontier workers due to frontier overlapping. These "non trade union" organisations appeared and developed considerably in certain regions, on the one hand because neither trade unions from the country of work nor from the country of residence took much interest in the marginal problems of transfrontier workers - Belgium provided an exception -, on the other hand because a knowledge of social security systems and of different economic, cultural and political systems require a major investment in research and information of which the national trade unions were not always capable. We know however that, where specific groups exist, they push their members to join trade unions in the country of employment. This moreover corresponds quite closely to the priority needs of the transfrontier workers: guarantee of job and wages, training and vocational establishment. There does not appear to be contradiction or antagonism between these representative groups and the trade unions since each have their tasks with the groups acting sometimes as a bridge, going into detail on national disputes on social or tax matters for instance, trying not to enter into local quarrels, which trade unions are apt to do in some regions.

Generally it can be said that transfrontier workers join trade unions in the country of employment and that only a minority join trade unions in the country of residence. Taking account of the importance, at least as an indicator, of frontier regions and transfrontier workers, there is hardly any doubt that all trade unions, whatever their leanings, increasingly take an interest in the specific problems of these workers even with regard to claims of a general character; some persons questioned (the minority) were nevertheless in favour of joining trade unions in the country of residence. Our interviews with the organisations of trans-

frontier workers, apart from this problem of representation, also showed that in the event of unemployment, the transfrontier worker wished to receive relevant unemployment benefit in the country of employment to avoid any discrimination between transfrontier workers and national wage earners in the country of employment. Any provision especially regarding frontier zones should be annulled. Opinions differed as to the country (of employment or of residence) where tax should be paid. The majority of people asked supported tax in the country of employment according to its tax laws. No special statute should be created for transfrontier workers; all wage earners should be integrated (and receive the same treatment). Self-employed workers should also benefit from social security regulation at European level or should be integrated according to existing regulations. Employment on either side of the frontier should also be the subject of rules (taxes, social security contributions). Mutual recognition of administrative and medical inspection should be improved. These proposals and wishes of the transfrontier commuters themselves were not accompanied by suggestions as to the procedure for solution to be followed. Indeed no one questioned wished to make a concrete suggestion to this effect in one form or another.

Still with regard to social questions, a further discrimination appeared in 1977 with regard to transfrontier workers : the Belgian "prepension" and the French "preretirement" proposal to which the transfrontier worker has no claim, at least at present and probably because of the national sovereignty principle. These two forms of social benefit, Belgian prepension (1) and French preretirement, form a guarantee of means for wage earners over 60, whether redundant or wishing to leave work in the two countries (except for women, who retire at 60 in Belgium); at economic level it is also a hidden way of making jobs available to young age groups. This means guarantee is 70% minimum of wages. It is however useful to note that the French preretirement has so far had little success with the anticipated beneficiaries; this can doubtless be explained by economic reasons, psychological motives etc..

To complete this section on solutions for social problems of the transfrontier worker, we can give a brief outline of a series of other problems, doubtless small but important to those who have to live with them : part time work, temporary work, secret work, customs duties, housing, transport, summer and winter hours of work, holidays, closing of customs offices at certain times, search, exchange control, car for use at work, working tools, etc. It should be noted with regard to temporary work that the Commission is due to produce regulations shortly since social security and guarantee of jobs and wages of these temporary transfrontier workers are minimal.

The general conclusion of this social section is that the principle of responsibility for social security for transfrontier commuters by the country of employment should be better applied even if not generalised so far as administrative practice goes. The transfrontier worker should also be subject to the labour laws of the country of employment for

(1) Belgian conventional prepension : see C.C.T. N° 17 of 19.12.74
Selective prepension : see amending law (loi de relance) of
30.3.1976 and Royal Decree of 8.8.1976.

labour contracts, collective agreements, equivalence of skills and diplomas, for labour disputes, for trade union membership or trade associations, for health and medical treatment at work, for length (hours) of work etc.. Leaving the sector of work for that of home, the transfrontier worker should, through his residence, have a right to various further benefits linked to residence : sole wage earner, dependent allowances, housing allowances, education allowances, supplementary benefit for orphans, special benefits for handicapped children, prenatal and postnatal allowances, allowances for home help (children), school books allowances, housing moving allowances and even for foreign installation, grants for holiday homes or charities, interest free loans for young married couples, home premium for improvements, etc.

On all the evidence the following matters require more information, agreed action and cooperation principally at regional level : application of the general principle of responsibility for social security by the country of employment for benefits in cash or kind for the transfrontier worker and his family with regard to initial or continuous training (equivalence of diplomas and certificates bridges between school and further education, retraining ..), having regard to his status "a hybrid being" according to some, more or less peripheral both to his place of work and his residence. All European integration starts at frontier regions above all if it seeks to be comprehensive; since, in these areas, folk have to work collectively, on both sides of the frontier, to achieve uniformity and integration of their regional policy comprising all fields ecological, social, economic, cultural, educational, institutional ... and in all these fields a dual convergent effort is needed : at regional level through transfrontier cooperation, at European level by way of a general action on behalf of integration. For the social security of the transfrontier worker, this implies a more sustained administrative assistance, indeed institutionalised, and above all uniform social security rules, better still the adoption of European social security rules.

4.5. Outlines of political solutions

In dealing with replies to questions of an economic, social and fiscal character, the political matter was ever present in the background. Before concluding this study on transfrontier commuters, the political aspect must be considered, with all this involves e.g. by defining the transfrontier commuter, his statute and situation against the general debate on frontier regions.

Without seeking to dwell on the causes of delay in European construction or integration, it is still necessary to state one more that, if there is no spontaneous and general uniform action by Member States and even by third countries in all sectors (economic, social, fiscal, cultural, etc..) the transfrontier worker will still find himself, no doubt for a long time yet, in a hybrid, ambiguous situation, which will some times be a source of discrimination but also, and how much, an eye opener to the inadequacy of European unity at this point. This shows the consequences for some, who cannot share therein of the strict application of national sovereignty. While awaiting European unity, frontier regions and frontier workers should envisage their problems resolutely. It is pretty supine for instance to state that until economic and monetary

union is achieved, transfrontier workers must themselves support the consequences of exchange rate fluctuations as part of risk they have themselves accepted; it is equally irresponsible to suggest for instance that economic, social and cultural difficulties debated by the frontier regions should await the achievement of European unity for settlement. Everyone knows that public opinion, including that of nation-states, is more important for the evolution of societies than the advent of institutions, however Community they may be in character. The famous "Europe by small steps" is the hope of transfrontier workers and frontier regions; some find this so difficult to accept. For this reason it may be stated that the problems of transfrontier workers and frontier regions are really European problems, which call for European solutions; these can only be political; these problems are both indicators and catalysers of wider European problems and their solution is therefore part of wider solution.

4.5.1. The definition of the transfrontier commuter and its consequences

Without returning to the long definition considered in the first part of this summary, the main points may be recalled in order to understand their political meaning.

The transfrontier worker, employed in one country where he goes to work daily and living in another country, is dependent on two national sovereignties; this is the essence of his special position and the source of all his problems; they distinguish him from the migrant worker and call therefore for specific solutions. The Community, in agreed action with Member States and also with third countries (Austria and Switzerland mainly) and by way of a decision by the Council and the Parliament, acting on a proposal from the Commission, could apply certain general principles having regard to transfrontier commuters :

- general responsibility, in time also, to be assumed by countries of employment for social security provision for transfrontier workers, whether dependent or self employed and regardless of nationality;
- taxation of the transfrontier commuter to take place preferably in the country of source and no longer at his place of residence with present exceptions being maintained for a while to take account of acquired habit;
- reconveyance of a substantial proportion of tax raised by country of source to the country of residence (with reverse possibility if applicable); this is designed to ensure share of costs and profits;
- so that each country may receive sufficient resources to meet infrastructure, housing and training of the transfrontier worker or costs inherent in his job;
- this would correct, at least partially, the many financial and administrative difficulties, which are linked with transfers for example. This reconveyance would act in a general context as a compensatory balance or as profit and loss account.

Lastly we can state, as already proposed; that the suppression of the frontier zones, desired by the interested parties themselves, by all the social economic partners and lastly by manifold authorities, political, regional, national, administrative, social, fiscal would be counter-balanced if it were found necessary to reintroduce the daily return ticket for the transfrontier worker between his place of work and his home; the present means of transport would make this possible and the draconian conditions of the nineteen thirties for protecting the national labour markets have changed.

4.5.2. The statute (status officially recognised) of European transfrontier commuters

The definition and the general principles appearing therein, linked to the systems of "reconveyancing" or of "equalising compensation" would be included in a possible statute of the transfrontier commuter; one writes possible because according to the kind of arguments to which reference has been made, this statute would either be created or refused. Its advantages and drawbacks need developing so that political authorities, regional, national and above all European may the better make up their minds.

Historically, only the Franco-Belgian agreement of 1949 refers explicitly to a "statute" of the transfrontier commuter. The choice of this expression is due to economic, social and political reasons peculiar to the Franco-Belgian frontier. Buy why has it never become general practice? Should it become so now?

The basic question therefore arising now is to know if the transfrontier commuter will be better protected or if his problems will be better understood and better settled by way of a statute than by other legal mechanisms it being understood that this statute will comprise all rights and obligations, valid for all European countries.

4.5.2.1. The advantage of a statute for the European transfrontier commuter

First it could form a reference for promulgating Community or other regulations and for establishing bilateral or multilateral conventions. Its political colour would be clear in so far as it was evidence of the inadequacy of European unity or of the will to unify Europe since only acceptance of these phenomena would solve all the problems of transfrontier workers. The slow rate of European construction makes it necessary for those who suffer therefrom to use certain counter measures, doubtless temporary but efficient and to use them quickly. A European statute for transfrontier workers provides an example. This would be part of "Europe by small steps".

The aim of awareness by the authorities concerned - European, national or regional - of the sometimes serious difficulties encountered by the transfrontier commuter would doubtless be aided by creating a statute for the European transfrontier worker : the psychological impact, and even positive, which would be created by the existence of this statute would be felt firstly quite strongly by the transfrontier workers themselves - they would feel they had found their role again in the task of European construction and above all because their problems were also

recognised by European institutions - and secondly the impact would be more widely felt by other authorities and groups in Europe. It should also be noted that the majority of groups or trade unions, who defend transfrontier workers do in fact favour a European statute of this order; the only criticism made by certain unions, and they are important, is that their task is to defend the interests of all workers, including those of transfrontier workers and not only of one category among them.

Lastly, among other advantages, activity is always aroused when a problem becomes institutionalised as does its solution.

4.5.2.2. The drawbacks of a statute for the European transfrontier commuter

The institutional activity abovementioned should not however be misconceived; an institution, a statute, may act as a brake on potential developments. Law often follows fact, say the lawyers. This drawback is not however the most important. To what lowest common denominator should the statute be reduced, firstly to be acceptable to all European States, and not only the EEC Member States), next to meet the wide variety and complexity of problems of transfrontier workers in all European frontier regions? Doubtless a few general principles would provide the bones of this statute but how far would they go? What the transfrontier workers want most - and with them many trade unions, associations and groups defending their interests - we questioned them in seven Member countries and in Switzerland and Austria -, is job protection on the same basis as nationals or residents - vocational or sustained training - future recording on the labour market where they work within natural basins of transfrontier employment according to the expression used by certain of their groups. In any event, what workers have total job guarantee even where protected by excellent laws or active trade unions? The law of supply and demand, the basis of the labour market system in Western Europe, has still stronger limitations thereon.

A further disadvantage for the Community is the multiplication of particular or individual category statutes; these statutes are indeed interim solutions : do they not run counter to the prospect of full European integration? a further disadvantage still : a statute lacks flexibility; the frontier regions are so special that some groups of transfrontier workers prefer to settle their problems bilaterally or multilaterally directly with the authorities concerned at regional or national level. This last drawback may yet sometimes convert to advantage if transfrontier workers would have the chance of appealing to a European statute when delays in problem settlement were long at regional or national level especially if the statute were more a model than a lowest common denominator. Switzerland, which is the principal "customer" country for transfrontier commuters (more than one third) would have some difficulties in accepting a "model statute" since it has reserves on ratifying the Social Charter of the Council of Europe. Moreover problems would arise of application, inspection and interpretation given the number, variety and individuality of each frontier region.

Whatever solution is adopted - statute or other legal instruments such as regulation, administrative arrangement, protocol, etc., the essential is that the special character of transfrontier labour should be recognised and that all European institutions should combine to protect it and

ensure it does not disappear; transfrontier workers are, indeed, excellent indicators and catalysers of European construction. Doubtless, given the history and individual characteristics of each European institution, one formula might be for the Council of Europe to establish a very general statute for the transfrontier worker and for the European Community, on a proposal by the Commission, agreed by the Council, to produce regulations applicable to transfrontier workers; or perhaps a common or joint standard section to be inserted in all bilateral or multilateral conventions on transfrontier workers and valid for the States in question in all their agreements with third countries. This standard section would have the advantage of aligning social and tax laws on transfrontier workers more effectively; it would also remove or at least diminish differences of treatment and discrimination still affecting transfrontier workers e.g. at social and tax levels.

The two institutions concerned, Council of Europe and European Community, could agree first between their own authorities and then officially between organisations on the definition of the transfrontier commuter, his rights and basic obligations. This European agreement would be helped if the interested parties could be heard themselves through their representative organisations, nominated or having assumed responsibility for them; also helpful would be official European recognition of the special character of transfrontier workers. It is therefore important that these organisations should be validly and effectively represented at Brussels and Strasbourg.

4.5.3. The transfrontier regions and transfrontier commuters

The problems of transfrontier workers are only the reflection of the more general problems of frontier regions. To resolve the problems of one is to resolve in part the problems of the other. Within this perspective, it is interesting to record the latest proposals of the Commission of 3 June 1977 on new regional policy guidelines; among the four types of problem facing the Community at present are "specific problems of frontier regions" (to be noted that the Commission does not state whether the regions are internal and/or external; also of note are the resolutions and work of the European Parliament on the same regions from the institutional and economic aspect. As we have already stressed, specific national, bi-national or Community ("quota free") aids should only be given to transfrontier workers having agreed to treat their problems and solutions jointly, to establish a convergent regional policy, based on aims, regional planning schemes, agreed social, economic and cultural guidelines. In this connection tests would be desirable to see just how far transfrontier cooperation can or cannot go taking account of all the limitations to which it is subject.

The study on transfrontier commuters has suggested in part the impediments encountered by transfrontier workers at economic, social, political and cultural levels. Certainly one should go further and understand better e.g. at economic level the employment structures of these regions, analyse their complementary character, how they are in opposition to each other and how they run parallel and establish realisable solutions at least in the medium term from adequate information, agreed concerted measures and transfrontier cooperation; the debate on transfrontier employment shows that the best laid regional planning will be unable to solve its problem

and that it has above all a political dimension. Indeed, social and fiscal responsibility for the transfrontier worker does not remedy major drawbacks of economies of different growth and with monies of different value. In this field it is clear that so long as the economic and monetary union of Europe is not achieved or at least a zone or a system of sufficiently flexible monetary stability is not established, a proportion of frontier labour will suffer from differences in exchange rates between currencies or economic imbalances in space and time between the regions where it works and lives. But should one await European union before solving the serious problems encountered by frontier regions? Would not functional construction of these transfrontier regions be a very valid link in this European construction? It would at least help the Europe of "small steps".

Two important matters are the subject of persistent claims by trans-frontier commuters : jobs and vocational training (initial or sustained). Of course, in order to diminish the economic imbalances existing in virtually all frontier regions and partly explaining the transfrontier flows, there will be original solutions for employment and training such as "functional links" across frontiers, which are functional and non political (within the meaning of transfrontier regional authority) and which will meet requirement of a joint character in "employment basins", in economic development basins, in regional planning and social cultural relations across frontiers within the EEC or even with third countries. These functional links in frontier regions would fall almost naturally within the finalising of a Community "global regional policy". The fact that recently the "établissements publics" (public services), which still form the framework of French regions have been studying increasingly the problems of employment and training would seem to augur favourably for possible "functional links" across frontiers between authorities, administrative departments and social economic partners at least on problems of employment and economic development. The Franco-Genevese case with its modest transfrontier experience at this level also allows for relative optimism here.

This study on the social economic and social cultural context of trans-frontier regions in relation to transfrontier commuters, in other words suggestions for conditions of balanced development for a group of different regional territories will reveal gradually the bases of a contractual regional policy, in the absence of sufficient European integration, where frontiers will no longer be sources of disturbance or imbalance but where these same frontiers by way of special measures put at the disposal of political and economic agents will become potential poles for reestablishing balance. Certainly there will be stages in these "transfrontier contracts"; they will observe the individual characteristics of each group and the stages will provide for information, concerted measures, cooperation and finally uniform action.

The integration of Europe is a long term business. For this reason all detailed consideration, including this study on transfrontier commuters and the factors and conditions whereby transfrontier regions may understand each other and cooperate better, respecting each other's history and special characteristics, should form a helpful factor for European construction and for solving a number of problems of transfrontier workers. To diagnose the situation in the internal and external frontier

regions of the EEC and even more to suggest a group of solutions to problems in these same regions by means of special cases and individual tests may be good and sufficient reason for new Community guidelines on frontiers. Indeed, this amounts to reemphasizing the role of catalyser and indicator now inherent in all frontier regions with regard to European integration whether this integration takes an institutional form or whether it is purely contractual. These regions should not therefore be envisaged as simple cushion-zones or even interlocking zones but certainly as regions integrated or to be integrated, which is the only way to solve their problems of imbalances or opposing economic, social or cultural situations.

Will not these frontier regions be Europe's opportunity, with the trans-frontier commuters as the principal actors, indicators and catalysers, of an integration as yet incomplete?

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I.U.E.E.

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