

E U R O P E A N C O M M U N I T I E S

# BULLETIN

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ECONOMIC AND  
S O C I A L  
C O M M I T T E E



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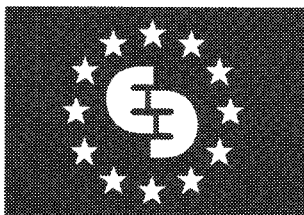
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ECONOMIC AND  
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This Bulletin reports on the activities of the Economic and Social Committee, a consultative body of the European Communities. It is published by the ESC's General Secretariat (2, rue Ravenstein, B-1000 Brussels) in the official Community languages (10 editions per annum)

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*The complete texts of the Opinions summarized in this brochure can be obtained either in the Official Journal of the European Communities, Office for Official Publications, 2, rue Mercier, L-2985 Luxembourg, or directly from the ESC Division for Relations with Economic and Social Councils and socio-economic groups (Fax: + 32.2.546.98.22)*

### ***On-line Database of Economic and Social Committee Opinions***

*The Economic and Social Committee (ESC) has recently launched a database containing the full text of the Committee's opinions and bulletins. The database contains opinions, in all working languages, since January 1995. The ESC bulletin is available in English and French. The database may be searched using the CCL, a menu system and "Watch ECHO". It is planned to diffuse key documents on the World Wide Web :*

***<http://www.echo.lu/ces/ceshome.html>***

*The ESC database will be available free of charge.*

## I. 341<sup>th</sup> PLENARY SESSION HELD ON 18 AND 19 DECEMBER 1996

The 341<sup>st</sup> plenary session of the Economic and Social Committee of the European Communities was held in Brussels on 18/19 December. **Tom Jenkins** presided.

Commissioner **Franz Fischler** attended the session and spoke on the adoption of the Own-initiative Opinion on the implications for the CAP of the accession of countries of central and eastern Europe.

The Committee adopted the following opinions at this session:

### 1. FOODSTUFFS/ADDITIVES OTHER THAN COLOURS OR SWEETENERS

**Opinion of the Economic and Social Committee on the Proposal for a European Parliament and Council Directive amending European Parliament and Council Directive 95/2/EC on food additives other than colours and sweeteners**  
(COM(96) 303 final - 96/0166 COD)

(CES 1504/96 - 96/0166 COD)

Rapporteur: Mr Kenneth J. GARDNER (United Kingdom - Employers)

Co-Rapporteurs: Mr Sergio COLOMBO (Italy - Workers)

Mrs Ann DAVISON (United Kingdom - Various Interests)

#### Gist of the Commission proposal

The framework Directive 89/107/EEC harmonised the use of additives at Community level. Its objective was the free movement of foodstuffs, while ensuring effective consumer protection and a wide choice.

Directive 95/2/EC specifically dealt with food additives other than colours and sweeteners and was based on the principle of the positive list (authorised additives and the foodstuffs in which they may be used).

The Commission proposal referred to the Committee aims to introduce certain new categories of food in which additives which have already been authorised may be used. These are categories which are already on the market and which would be likely to become outlawed once the period for transposing the Directive has expired, since from that date onwards Member States will no longer be able to amend the lists or the rules governing the use of additives on their own initiative.

The proposal also takes account of the recent evaluations made by the Scientific Committee for Food on the acceptability of the use of some new food additives.

#### Gist of the opinion

The Economic and Social Committee approves the Proposal for a Directive amending the General Additives Directive (95/2/EC), which mainly involves applications of existing additives other than colours and sweeteners, as necessary and urgent subject to some comments.

The current amendment procedure involving Council and Parliament is complicated and results in an extremely long time scale<sup>1</sup> to adapt additives to new developments. In addition, there is a real need for having a procedure which involves the citizen adequately. The Committee therefore suggests the following compromise:

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<sup>1</sup>

Up to 4 years in some cases.

- changes involving new additives should continue by a Council and Parliament procedure;
- changes involving only changes in application should be made by a Committee procedure involving the Standing Committee for Foodstuffs, prior consultation of the various socio-economic partners represented on the Advisory Committee for Food.

In general if there are no health limitations it is best to have the widest choice of alternatives on the list of additives, thus reducing the consumption of any particular one.

The Committee has also a number of detailed comments on the Annexes, which concern sections 3 and 9 and also those referring to Sorbates, Sulphites, Phosphates and talc. In addition, it would like to add to Annex IV:

- "E 297 (Fumaric acid) : Muffins 2.5 g/kg"
- "E 363 (Succinic acid): Transfer to Annex I or moulded jelly sweets 10 g/kg (for surface treatment only)".

## 2. CAP/CEEC (*Own-initiative opinion*)

**Opinion of the Economic and Social Committee** on the *implications for CAP of the accession of countries of central and eastern Europe*

(CES 1505/96)

Rapporteur: Jean-Paul BASTIAN (France - Various Interests)

### **Gist of the opinion**

The Committee considers that it is in the interests of both the EU and the CEEC for the Intergovernmental Conference on the reform of Community institutions to be a success and for a single currency to be introduced before the accession of the CEEC.

According to the Committee it is important to put CEEC agricultural production potential into its proper perspective, bearing in mind the European Commission's projections for the years 2000-2010. Drawing its conclusions from the Commission's white paper, the Committee considers that an in-depth reform of the CAP faced with the first round of accessions, perhaps in the year 2000, is not necessary although sectoral adjustments may have to be made in the meantime.

The Committee considers that the cost of extending the CAP to the CEEC must be also kept in its proper perspective and that the real budgetary problems will arise as a result of the need to extend the structural funds. The commitments entered into by the EU and the CEEC as part of the Uruguay Round are a cause of greater concern, even if the real problem is not so much the compatibility of CAP with GATT as the compatibility of CAP with the increased liberalization of international agricultural trade and policies.

According to the Committee, the accession of the CEEC is only one of the factors which will force changes to the CAP.

The Committee considers that a strategy designed to secure the long-term postponement of CEEC membership, on the pretext that the development gap between the CEEC and the EU needs to be closed first progressively, is not in the best interests of either the EU and certainly not of the CEEC.

The basis of any enlargement negotiations with the CEEC must remain acceptance of the *acquis communautaire*, with political realism dictating that the CEEC will have to accept the CAP as it stands at the time of accession. After accession, transitional periods will be necessary before the CEEC can fully assimilate all CAP mechanisms and have free access to the single market.

During these transitional periods, where the CAP will continue to evolve, the CEEC would benefit from institutionally-agreed prices at a level corresponding to their situation. It will be particularly important to set up a price stabilization mechanism in the CEEC; farmers from the CEEC would prefer to see this than price increases. The Committee considers that if the CEEC join the EU when production controls are still an instrument of market management, the CEEC will have to accept their quota of production restrictions.

The Committee is in favour of staggered entry since situations in the CEEC vary widely. Pending accession, the CEEC should be helped to switch to a market economy, bearing in mind the human dimension of this process. This is where social and economic organizations will have a key role to play. The Committee is also in favour of a pre-accession fund to further the convergence of CEEC agriculture with the CAP.

Finally, the Committee recommends that the CEEC be given help to establish an integrated regional area and take into account the specific problems of Russia. It also emphasizes the need to convince the EU's partners that a gesture of solidarity should be made towards the CEEC to facilitate the enlargement process.

### 3. CMO/RAW TOBACCO

**Opinion of the Economic and Social Committee** on the *Proposal for a Council Regulation (EC) amending Regulation (EEC) No. 2075/92 on the common organization of the market in raw tobacco* (COM(96) 478 final - 96/0241 CNS)

(CES 1508/96 - 96/0241 CNS)

Rapporteur-General: Rudolf STRASSER (Austria - Various Interests)

#### **Gist of the Commission proposal**

Regulation (EEC) No. 2075/92 provides for the granting of supplementary amounts for flue-cured, light air-cured and dark air-cured tobaccos grown in Belgium, Germany and France.

The purpose of the amendment is to grant the same supplementary amounts to Austria as are granted for tobacco grown in Germany, as the growing conditions for those tobaccos are similar in the two countries.

#### **Gist of the opinion**

The Committee welcomes the Commission's proposal.

### 4. CEPHALOPODS - CANARY ISLANDS

**Opinion of the Economic and Social Committee** on the *proposal for a Council regulation (EC) setting up a specific measure in favour of cephalopod producers permanently based in the Canary Islands*

(COM(96) 528 final - 96/0254 CNS)

(CES 1509/96 - 96/0254 CNS)

Rapporteur-General: Jesús MUÑIZ GUARDADO (Spain - Various Interests)

### **Gist of the Commission proposal**

On 26 June 1991 the Council adopted legislation on the application of Community law in the Canary Islands. It also adopted a programme of options for dealing specifically with the remoteness and island character of the Canary Islands called POSEICAN.

Against this background it was thought opportune to implement a scheme in 1993-95 to help maintain the competitiveness and generally improve cephalopod fishery in the Canaries.

Since there has been no significant change in the general economic conditions which led to this specific measure in the first place, it is proposed that the specific measure in favour of cephalopod producers permanently based in the Canary Islands be extended for a further two years.

### **Gist of the Committee opinion**

The Committee approved the Commission proposal.

## **5. HARMONISATION OF DOMESTIC LAWS ON ARTISTS' RESALE RIGHTS**

**Opinion of the Economic and Social Committee on the *Proposal for a European Parliament and Council Directive harmonizing domestic laws on the artist's resale rights***  
( COM(96) 97 final - 96/0085 COD)

(CES 1507/96 - 96/0085 COD)

Rapporteur: Joël DECAILLON (France - Workers)

### **Gist of the Commission Document**

This directive seeks to create harmonized legal arrangements for the artists's resale right.

"Artist's resale right" can be defined as the right for the author, or after his death for his heirs or other beneficiaries, to receive a percentage of the price of a work - usually a work in the field of the graphic and plastic arts - when it is resold by public auction or through an agent.

The artists's resale right was adopted originally for reasons of equity, to prevent a situation from arising in which a struggling young artist sells his works cheaply and does not share, when he has become famous, in the - sometimes substantial - profits earned by art dealers.

Eleven of the 15 Member States recognize such resale rights and eight already apply it in practice. In each of the jurisdictions concerned, the artist's resale right is included in the legislation on copyright and is classed as a property right. It is of limited duration.

National legislation does however differ, where it exists, inter alia as regards the works covered, those entitled to royalties, the rate applied, the sales subject to payment of a royalty, and the basis of assessment thereof.

The imposition or absence of such rights has a significant impact on the competitive environment within the Internal Market. As with any other parafiscal charge, it is a factor which must be taken into account by any individual wishing to sell a work of art. This right therefore contributes to distortions of competition as well as displacements of sales within the European Union. Such disparities in the application and collection of royalties by the Member States have a direct adverse impact on functioning of the internal market in works of art as provided for by Article 7a of the Treaty.



The Commission proposes a tapering scale of royalty rates based on three price bands, ranging from 2% to 4% of the sale price.

The proposal confines itself to enabling Member States to make recourse to a collecting society mandatory. In that event, collecting societies are obliged to treat authors from all Member States on the same basis.

The duration of the artist's resale right is to be up to 70 years after the author's death, as provided for in Directive 93/98/EEC on the term of protection for copyright.

### **Gist of the Opinion**

The Committee welcomes the provisions of the proposal, which remove distortions of competition within the single market.

EU harmonization of the resale right would be a first step towards extending the right to all EEA countries, and to the countries of central and eastern Europe, the Baltic States and the independent states of the former USSR, which are linked to the European Union via association, partnership or cooperation agreements.

Whilst this provision is wise, it does not excuse the Commission from arguing forcibly, in international arenas and in multilateral and bilateral negotiations with third countries, for worldwide extension of the artist's resale right, in the interests both of artists and authors, and of art dealers.

The Committee feels that collective management of the artist's resale right is the most appropriate solution to protect the author's interests.

The Committee welcomes the extension to third countries of the principle of reciprocal treatment.

A monitoring procedure of this kind seems fully in order for the proper implementation of the artist's resale right. The Committee feels, however, that if the collation of information is to be efficient and avoid hindering the smooth operation of the agencies concerned, it must be governed by appropriate measures. The Committee would stress the positive role which authors' copyright associations could play in collating information.

The Committee welcomes the provision that the Commission is to present to the European Parliament, the Council and the Economic and Social Committee, on or before 1 January 2004 and then every five years, a report on the implementation of the directive, and will, where appropriate, put forward proposals for adjusting the minimum threshold and the rates of the royalties to take account of changes in the sector.

## **6. XXVTH REPORT ON COMPETITION POLICY**

**Opinion of the Economic and Social Committee on the XXVth Report on Competition Policy (1995) and the Preliminary Draft Commission notice on cooperation between national competition authorities and the Commission in handling cases falling within the scope of Articles 85 or 86 of the EC Treaty**  
(COM(96) 126 final)

(CES 1510/96)

Rapporteur: Edoardo BAGLIANO (Italy - Employers)

## **Gist of the Commission documents**

### *XXVth report on competition policy*

Competition policy and competitiveness policy are not contradictory but rather serve the same goals of creating the essential conditions for the development and maintenance of an efficient and competitive Community industry, bringing better products and services to European consumers, and providing a stable economic environment.

While the legislative steps spelt out in the 1985 Commission White Paper on the internal market have almost all been adopted and transposed at national level, preliminary evidence suggests that some product and service markets remain fragmented.

The Commission identifies three main areas of activity in competition policy: anti-competitive agreements and practices; the regulated or monopoly sectors; and state aid.

The increasing globalization of the economy and the changing pattern of modern trade make cooperation between competition authorities inevitable.

The annual report on competition policy serves as a basic instrument of communication and information to the other institutions of the European Union, in particular the European Parliament, the Council and the Economic and Social Committee.

The Commission's XXVth annual report on the subject (1995) differs in presentation from previous reports.

The Commission has been asked, in particular by the Economic and Social Committee, to present a shorter and more readable document. It has therefore decided to produce a more concise report than in the past, focusing on the main policy developments in the field of competition. In addition to the present report, the Commission's Directorate-General for Competition (DG IV) has prepared a report on the application of the competition rules in the European Union - 1995, which describes the important individual cases decided by the Commission.

1995 saw a large increase (36%) in the overall number of new cases registered. A significant part of this increase is due to the accession of three new Member States to the EU on 1 January 1995.

The total number of cases closed in 1995 remained almost at the same level as in 1994: 1,210 cases compared with 1,200.

The report is divided into five main sections:

- I. Anti-trust: Articles 85 and 86
- II. State monopolies and monopoly rights: Articles 37 and 90
- III. Merger control
- IV. State aid
- V. International activities.

### *Preliminary Draft Commission notice on cooperation between national competition authorities and the Commission in handling cases falling within the scope of Articles 85 and 86 of the EC Treaty*

The Commission intends to issue a notice on cooperation between national competition authorities and the Commission in handling cases falling within the scope of Articles 85 and 86 of the EC Treaty. Before adopting the notice, the Commission invites all interested persons to submit their written observations on the draft.

The chapters of the draft are as follows:

- the role of the Member State and of the Community
- guidelines on case allocation
- cooperation in cases which the Commission deals with first
- cooperation in cases which a national authority deals with first
- concluding remarks.

### **Gist of the opinion**

#### ***XXVth report on competition policy (1995)***

It is desirable that, as part of the growing moves to "promote" competition law, more space be devoted to the chapters on the application of national and EU competition rules in the Member States.

- The Committee notes the explicit assurance that Article 85(3) makes it possible to consider agreements between *cooperatives* "with the necessary flexibility";
- On the subject of *information exchange agreements*, the Committee points out that communication technologies have advanced dramatically. "Real time" information is now a key requirement of businesses and, for many of them, is intrinsic to productivity and efficiency and hence to competitive growth.
- The Committee applauds the Commission's intention to extend the scope of the block exemption regulations so as to allow pro-competitive agreements between *SMEs*, and welcomes its commitment to look favourably on cooperation in general.

The Committee again asks the Commission to reconsider *vertical cooperation* with the necessary flexibility, as such cooperation should not necessarily be prohibited under Article 85.

As regards *procedural law*, the Committee thinks that the rights of the defendant, access to files and the length of procedures (although progress has been made in this latter regard) all need to be improved.

An effective EU competition policy increasingly calls for cooperation from national authorities. The demarcation criteria must be clear and precise.

If further steps were also made to harmonize national legislation, the risk of "diversified" interpretations or implementation could be considerably reduced.

#### ***Monopolies***

Replying to the Committee's last opinion, the Commission explains that "guaranteeing a universal service of a high standard is at the heart of (its) liberalization policy", and adds that "this may also be provided in a competitive environment, by public or private operators". However, a universal service must still be guaranteed in those sectors where market forces are insufficient and where the public's right of access is jeopardized.

#### ***Trans-European networks***

It is not possible to create a properly integrated single market without upgrading communication networks (transport, telecommunications, energy) at EU level. The Committee again stresses the major impact which the individual projects will have on competitiveness. The Committee also welcomes the Commission's drive to establish common rules for the internal **energy** market.

### *Shipping*

The block exemption for liner shipping consortia recognizes that such agreements can be designed both to improve productivity and quality of service. However, it is clear that this must always be backed by sufficient competition. The Committee would like to see a realistic assessment of the effects of the block exemption Regulation (4056/86) as regards liner conferences.

### *Air transport*

The Commission is undoubtedly right to adopt a case-by-case approach in this sector. The Committee considers that it was realistic of the Commission to abolish the block exemption for goods transport.

### *Telecommunications*

The application of competition rules will certainly help to keep the growth sector of telecommunications dynamic.

Competition policy must refine its monitoring instruments and consider any initiative in this sector flexibly, safeguarding both progress and the general interest. Looking ahead to full liberalization, the Committee again stresses the importance of the universal service, including its funding.

### *Environment*

The Committee agrees that enhancement of the environment should be included among the grounds for exemptions under Article 85(3). Voluntary agreements concluded between industry and public authorities with a view to environment protection should be viewed favourably when applying competition rules.

### *Liberal professions*

The Commission is also right to intervene in this sector. Certain practices and association agreements, and some types of cooperation, may form obstacles to trade and distort competition.

### *Merger control*

The review of Regulation 4064/89 has now reached the more concrete planning stage. The Committee confirms its preference for a lowering of thresholds, although it has not ruled out alternative solutions based on the presence of multiple notifications.

Alongside the problem of thresholds, the revision of Regulation 4064/89 also tackles the question of full-function "cooperative" joint ventures. Here the Committee urges the Commission to proceed with the utmost clarity, so as to avoid both damaging uncertainty and discrimination; an appropriate solution is also needed for "structural" joint ventures.

### *State aid*

The Commission must step up its efforts to improve transparency and protect third party rights. The Committee underlines the important and topical nature of the close link between competition policy and economic and social cohesion policy, and asks the Commission to give this matter specific consideration in its next report on state aid.

The aim must be to reduce aid, revise the rules, and improve clarity. The Commission should adopt a Regulation formalizing third party rights.

Information, too, should be improved. A public register of all cases would be extremely useful.

### ***Independent European agency***

When considering the case for an independent European agency, it must first be decided whether its duties should only concern mergers, or should extend to Articles 85 and 86 or even Article 90ff. Even if - as seems likely - the agency's duties were limited to mergers, the Committee still opposes the idea.

The safeguarding of free competition within the EU is a complex matter, and the competition policy which the Commission administers as part of a wider strategy remains an irreplaceable instrument which cannot be delegated.

### ***International relations***

#### ***Relations with countries that have applied for EU membership***

The Committee welcomes the pre-accession strategy for central and eastern European countries (CEEC), laid down by the Cannes European Council in June 1995.

Here the Committee would stress the importance of training programmes, technical assistance in legislative matters, cooperation with national competition authorities, and information schemes for businesses.

The Committee considers it a matter of priority that the CEEC guarantee transparency in public aid forthwith by publishing annually the overall sums allocated to State aid and the names of beneficiary companies. Lastly, the Committee trusts that national authorities will be set up as soon as possible to monitor State aid, to apply the rules laid down in the Europe Agreements.

#### ***Relations with multilateral international organizations***

The Committee has always supported the Commission's work with international organizations, and has particularly encouraged concrete moves to promote gradual convergence of competition rules at world level.

### ***Globalization, competition, growth***

The EU cannot hope to meet the challenges of globalization, competition with other regions and defence of the European social system unless its institutions maintain a high profile. To demand compliance with competition rules at world level requires authority and credibility.

Promoting competition means fostering competitiveness and innovation, and thus extending the supply of goods and services. An enlightened, forward looking competition policy must create favourable conditions for the emergence of new professions and new specializations.

More attention should be paid to the special job-creation potential offered by the key sectors of the environment, leisure and culture. Competition policy can mesh with employment policy if, with due respect for the rules, it facilitates cooperation schemes in these sectors.

#### ***Preliminary Draft Commission notice on cooperation between national competition authorities and the Commission in handling cases falling within the scope of Articles 85 or 86 of the EC Treaty (OJ C. 262 of 10.09.1996, page 5)***

The notice is undoubtedly well intentioned. The result, however, seems inadequate and unconvincing. An efficient and workable **decentralization** would require more incisive action, such as

- a revision of Regulation 17/62; and
- harmonization of national competition law, with the early adoption of procedural rules.

