

EUROPEAN COMMUNITIES

BULLETIN

8

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



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Origins

The Committee was established by the 1957 Rome Treaties in order to involve the various economic and social interest groups in the establishment of the common market and to provide the institutional machinery for briefing the Commission and the Council on all matters relating to the Community.

The Single European Act (1986) and the Maastricht Treaty (1992) reinforced the ESC's role.

Membership

The Committee has 222 members (195 men, 27 women) representing economic and social interest groups in Europe. Members are nominated by national governments and appointed by the Council of the European Union for a renewable 4-year term of office. They belong to one of three Groups: Employers (Group I - President: Manuel Eugénio CAVALEIRO BRANDÃO - Portugal), Workers (Group II - President: Tom JENKINS - United Kingdom), Various Interests (Group III - President: Beatrice RANGONI MACHIAVELLI - Italy). Germany, France, Italy and the United Kingdom have 24 members each, Spain has 21, Belgium, Greece, the Netherlands, Portugal, Austria and Sweden 12, Denmark, Ireland and Finland 9 and Luxembourg 6.

The Members' Mandate

The ESC members' main task is to issue Opinions on matters referred to the Committee by the Commission and the Council.

It should be noted that the ESC is the only body of this type which advises the EU Council of Ministers directly.

Advisory Role

Consultation of the Committee by the Commission or the Council is mandatory in certain cases; in others it is optional. The Committee may, however, also adopt Opinions on its own initiative. Both the Single Act (17.2.86) and the Maastricht Treaty (7.2.92) extended the range of issues which must be referred to the Committee, in particular the new policies (regional and environmental policy). On average the ESC delivers 180 Opinions a year (of which 10% are Own-initiative Opinions). All Opinions are forwarded to the Community's decision-making bodies and then published in the EC's Official Journal.

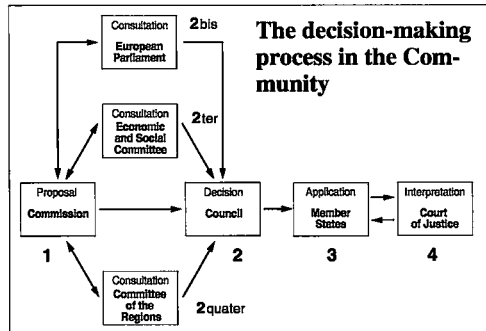
Information and Integration Role

Over the last few years the ESC has stepped up its role in the European Union and has transcended the straightforward duties flowing from the Treaties. Providing a forum for the Single Market, the ESC has, in conjunction with other Community Institutions, organized a number of events designed to improve links between the general public in Europe and the European Institutions.

Internal organization

1. Presidency and Bureau

Every two years the Committee elects a Bureau made up of 36 members (12 per Group), and a President and two Vice-Presidents chosen from each of the three Groups in rotation.



The President is responsible for the orderly conduct of the Committee's business. He is assisted in the discharge of his duties by the Vice-Presidents who deputize for him in the event of his absence.

The President represents the Committee in relations with outside bodies.

Joint briefs: relations with EFTA, CEEC, AMU, ACP countries, Latin America and other third countries fall within the remit of the Committee Bureau and President.

The Bureau's main task is to organize and coordinate the work of the Committee's various bodies and to lay down the political guidelines for this work.

2. Sections

The Committee has nine Sections:

- Economic, Financial and Monetary Questions - secretariat tel. 546.94.71 (President: Jean Pardon - Group I - Belgium)
- External Relations, Trade and Development Policy - secretariat tel. 546.93.16 (President: Roger Briesch - Group II - France)
- Social, Family, Educational and Cultural Affairs - secretariat tel. 546.93.02 (President: John F. Carroll - Group II - Ireland)
- Protection of the Environment, Public Health and Consumer Affairs - secretariat tel. 546.92.27 (President: Manuel Ataíde Ferreira - Group III - Portugal)
- Agriculture and Fisheries - secretariat tel. 546.93.96 (President: Pere Margalef Masià - Group III - Spain)
- Regional Development and Town and Country Planning - secretariat tel. 546.92.57 (President: Robert Moreland - Group III - United Kingdom)
- Industry, Commerce, Crafts and Services - secretariat tel. 546.93.85 (President: Liam Connellan - Group I - Ireland)
- Transport and Communications - secretariat tel. 546.93.53 (President: René Bleser - Group II - Luxembourg)
- Energy, Nuclear Questions and Research - secretariat tel. 546.97.94 (President: José Ignacio Gafo Fernández - Group I - Spain)

3. Study Groups

Section Opinions are drafted by Study Groups comprising an average of 12 members, including a Rapporteur, who may be assisted by experts (usually four with a maximum of six).

4. Sub-Committees

Where appropriate, the Committee can set up a temporary sub-committee, which operates on the same lines as Sections.

5. Plenary Session

The Committee meets in Plenary Session as a rule ten times a year. At the Plenary Sessions, Opinions are adopted on the basis of Section Opinions by a simple

majority. They are forwarded to the institutions and published in the Official Journal of the European Communities.

6. Relations with economic and social councils

The ESC maintains regular links with regional and national economic and social councils throughout the European Union. These links mainly involve exchanges of information and joint discussions every year on specific issues.

Moreover, the ESC maintains similar contacts worldwide with other economic and social councils in the "International Meetings" held every two years.

7. Relations with economic and social interest groups in third countries

The Committee has links with economic and social interest groups in a number of non-member countries and groups of countries, including Mediterranean countries, the ACP countries, Central and Eastern Europe, Latin America and EFTA. For this purpose the Committee sets up 15-30 man delegations headed by the President. For links with the countries of Central and Eastern Europe, some meetings will be institutionalized under the European Agreements.

Meetings

The average number of meetings held each year is as follows:

| | |
|---|--------------|
| Plenary Sessions | 10 |
| Sections | 70 |
| Study Groups | 350 |
| Group meetings | 85 |
| Meetings of sub-groups recognized by the three Groups | 160 |
| Miscellaneous | 370 |
| Visitors' groups (approx. 8,000 visitors) | 200 |
| TOTAL | 1,245 |

Publications

The ESC regularly distributes a number of publications free of charge (Order in writing by mail or fax - 546.98.22) inter alia its main Opinions in brochure format and a monthly newsletter.

Secretariat-General

The Committee is serviced by a Secretariat-General, headed by a Secretary-General, reporting to the Chairman representing the Bureau.

The number of officials (including temporary and auxiliary staff) is as follows:

| | |
|---|-------------------------|
| Category A (Administrators) | 59 (48 men, 11 women) |
| Category B (administrative assistants) | 65 (25 men, 40 women) |
| Category C (secretarial and clerical staff) | 237 (59 men, 178 women) |
| Category D (skilled employees) | 48 (36 men, 12 women) |
| Language Service | 121 (67 men, 54 women) |

Total: 530 (235 men, 295 women), more than a third of whom are involved in language work, given the need to operate in the Community's 11 official languages. However, as of 1 January 1995, the Economic and Social Committee and the Committee of the Regions will share a common core of services, drawing the bulk of their manpower from the ESC's secretariat.

1995 Budget

The 1995 Budget appropriations total ECU 83,900,000, of which ECU 57,800,000 have been earmarked for the joint services which the ESC shares with the Committee of the Regions.

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C O M M I T T E E



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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)

ECONOMIC AND SOCIAL COMMITTEE

Directorate for Communications
Division for Relations with Economic and Social Councils
and socio-economic groups
2, rue Ravenstein, B-1000 Brussels

Tel.: 546 90 11
Fax: 546 98 22

Telegram: ECOSEUR
Telex: 25 983 CESEUR

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I. 329th PLENARY SESSION HELD ON 25 AND 26 OCTOBER 1995

The 329th Plenary Session of the Economic and Social Committee was held in Brussels on 25 and 26 October 1995, with Mr Carlos Ferrer in the chair.

This meeting, which dealt mainly with employment issues in the European Union, was attended by Mr Pádraig Flynn, Member of the Commission and by representatives of the economic and social councils of the EU Member States and Algeria.

During the Session, the following 27 ESC Opinions were adopted, the first six of which related to the proceedings specifically earmarked for employment issues.

1. YOUTH UNEMPLOYMENT (*Own-initiative Opinion*)

Opinion of the Economic and Social Committee on *Youth unemployment*

(CES 1162/95)

Rapporteur : Mr Bernd RUPP (Germany - Various interests)

Reasons for drawing up the Opinion

- The high level of youth unemployment;
- counter-measures (further training, retraining, job creation);
- the social consequences of youth unemployment;
- divergent trends in the EU Member States.

Summary of the Opinion

The recent Brussels, Corfu and Essen European Council Summits all identified the fight against youth unemployment as a key priority for the European Union. The Council Resolution of 5 December 1994 on the quality and attractiveness of vocational education and training¹, drawing on the White Paper proposals, established a basic framework of principles necessary for the development of effective and efficient vocational training policies which should help combat youth unemployment. In the meantime, Objectives 3 and 4 priorities have been clearly set out in terms of anticipated labour market trends, training and guidance. The LEONARDO programme should also help to improve access to training and jobs and avoid the undue proliferation of programmes.

The Economic and Social Committee has already commented extensively on such matters. It has also registered, in general Opinions on growth and employment, that in the final event, whilst improved training is vital, it is the number of real jobs open to young people which ultimately counts. It is not the purpose of the Own-initiative Opinion to cover all these major points again.

The Committee recommends setting up a wage-cost subsidy scheme for young job seekers. The aim of the scheme should be to contribute to the creation and safeguarding of new jobs and to the implementation of a guarantee of employment for young unemployed persons by supporting newly-created jobs for the young over a limited period.

Young people who have been out of a job for longer than six months and who have not started some form of training should be given the chance to gain access to the mainstream labour market by means of practical work experience.

¹ OJ No. C 374 of 30.12.1994, pages 1-4

This support should continue for at least a year and cover up to 50% of the wage rates laid down by collective agreement. An unlimited contract of employment should be a prerequisite for such support. Transnational employment should merit special consideration in the scheme.

The Committee proposes to explore the idea of a **voluntary European "Community Service Scheme"** open to all under 25-year olds. This could be supplemented by a trainee programme with the emphasis on business exchange experience.

The starting point for such a scheme could be a **kind of social partnership** (rather like a social contract) between the public authorities, businesses, the social partners and young volunteers in the regions in order to combine, as touched upon in the White Paper proposals, public/private **partnerships**, part **work** and part **income support models**. Such "**partnerships**", encouraged by tax exemptions and social security schemes and involving socially useful activities, could be "sponsored" at the European level through transnational pilot projects, as in other programmes. An examination should be undertaken of whether the existing MECU 300 Youthstart programme, which supports young people under 20 in transnational experimental projects, should be opened up to include a programme of the kind described from 1996 onwards, when there will be an interim appraisal of on-going European Social Fund programmes. This would achieve one of the original objectives of the Youthstart programme.

The Committee also suggests setting up an action programme entitled "Workplace Europe". The purpose of this new European labour market policy initiative would be to provide young people who are preparing for a career, receiving vocational training or who have qualified with no job to go to, with the opportunity to do a traineeship leading to qualifications, of at least three months in an EU company. When the "Workplace Europe" action programme is implemented, the necessary networking with the LEONARDO programme should be established, allowing the programmes to be exploited together.

The programme should be open to all groups of young people and it should be financed out of the European Social Fund budget. It should be based on experience gained in the SESAME programme, or indeed incorporate the latter.

A coordinated procedure should be followed to identify, encourage and select commendable "community service" pilot projects and transnational exchange schemes, both in urban and rural areas, with a view to engaging young unemployed people in a tangible, identifiable and worthwhile European-wide community project for:

- environmental protection;
- urban and rural regeneration;
- restoration of cultural heritage;
- social services;
- caring and service activities not properly catered for by the traditional labour market.

The proposed voluntary **European "Community Service Scheme"** and the "**Workplace Europe**" action programme would also require a generalized and versatile system of official diplomas recognized throughout the Union.

2. **LOCAL DEVELOPMENT** (*Own-initiative Opinion*)

Opinion of the Economic and Social Committee on *Local development initiatives and regional policy*

(CES 1163/95)

Rapporteur : Mr Ettore MASUCCI (Italy - Workers)

Reasons for drawing up the Opinion

In recent years, the development of local economies has become a key plank of Community regional policy. The Corfu European Council of 24-25 June 1994 also stressed that

"local development initiatives offer considerable potential for reinforcing the economic and social fabric of the European Union and for creating jobs. They are an essential element of the new model of development mentioned in the White Paper and will help to preserve cultural diversity within the Union".

The purpose of regional policies is to trigger endogenous development mechanisms in the areas covered by Community measures. Numerous expert studies have proved beyond any doubt that transferring substantial financial resources is not enough. It has been found that, given the same level of funding, some regions remain underdeveloped or semi-dependent while others make a successful transition to internally driven forms of development. From a Community viewpoint, it is obviously helpful to know what factors make the difference: the role of the social partners or of private investors, and the network of institutions, infrastructure and services, in short, all those factors which together allow a (relatively large) area to take coherent steps to reach a satisfactory level of productivity and competitiveness.

The Opinion should help to define the conditions underpinning the vitality and success of areas which operate as more or less specialized districts, not only as regards industry (first and foremost, small businesses) but in all sectors playing an influential role in the region. The Opinion should help regional policy makers to pinpoint the locomotive factors that facilitate development.

Gist of the Opinion

After considering the nature and chief causes of unemployment, and current trends, the Opinion charts the Community's growing interest in local development. It goes on to define local development in economic, spatial and social terms, and in terms of its ultimate aims.

The Opinion then makes general comments on the factors underpinning and triggering local development, and the path it follows.

The Opinion makes a detailed analysis of the factors and players involved in local development, pinpointing its benefits and the instruments offered under the Community's structural funds. Finally, it takes a look at new sources of employment.

3. COORDINATION OF R&D POLICIES (*Own-initiative Opinion*)

Opinion of the Economic and Social Committee on the *Coordination of research and technological development policies*

(CES 1164/95)

Rapporteur : Mr Giannino BERNABEI (Italy - Employers)

Objective of the the Opinion

The Committee last studied the coordination of R&TD policies in 1980. This was before the publication of the first Community R&D framework programme, since when there have been major changes in the sector.

The **White Paper** on Growth, Competitiveness, Employment stressed that the EU would lose competitiveness without "a priori" and "a posteriori" coordination of R&D policies.

In point 11.39(a) of Chapter 11 (R&D) of its last report (OJ of 24.11.94), the EU Court of Auditors pointed out that "the utilization of the special appropriations by the Commission for the coordination of national policies has not led to any significant progress towards better coordination".

Clearly there is also a lack of transparency in national and Community research policies, despite the fact that the **principle of transparency** is a cornerstone of Community law-making.

All of these points were made in the **European Parliament** Resolution of June 1994.

In 1988 the Commission published a first report on the state of science and technology in the Community. This was supposed to be followed by an evaluation report which has yet to appear.

The last German Presidency of the Council regarded the coordination of national and Community R&TD policies as one of its priorities.

This interest was echoed not only in the informal Council of research ministers held in Schwerin, but also in the last Research Council of the German Presidency.

It should be emphasized that the same topic had already figured in the Communiqué issued by the European Council in Corfu. The current French Presidency of the Council has also demonstrated its concern by including it on the agenda for the Research Council on 10 March 1995.

On 19 October 1994 the Commission submitted a Communication entitled "Research and technological development - Achieving coordination through cooperation" (COM(94) 438 final).

In it, the Commission acknowledges the under-investment in R&D programmes in the EU and the fragmentation between different decision-making levels; these it sees as the principal reasons for improving coordination between these programmes so as to mitigate the adverse effects of this fragmentation and boost their impact and effectiveness.

To this end it proposes different types of action at different levels:

- **determination of R&D policies**
- **implementation of R&D activities** included in the framework programme pursuant to Articles 130k and 130l and under national programmes
- **international cooperation.**

Information technology has a key role to play in this coordination, as has a reformed CREST Committee.

The Commission is also prepared to study carefully the contributions and opinions of the **European Science and Technology Assembly**.

The Commission's aim in publishing this Communication is to initiate the implementation of Treaty Article 130h on the coordination of R&D policies.

In view of the foregoing comments, the Energy Section considered it necessary to ask the ESC Bureau for authorization to draw up an **Own-initiative Opinion** on the coordination of R&D policies.

The purpose is to launch a debate which will serve:

- as a study of possible measures for making **better use of existing instruments**, both for coordination and for aid to SMEs in the sector, at Community, national and local level;

- to help establish a **common reference framework** for Community and national authorities; there is a role here for CREST, which will include industry and user representatives and base itself on the inputs received from the European Science and Technology Assembly and the European Technology Assessment Network (ETAN);
- to ensure **greater transparency** in Community and national programmes, guaranteeing common access procedures;
- with regard to **R&D results**, where the situation is even more compartmentalized, to ensure a common protection framework for industrial property, common evaluation and dissemination methods (with special reference to the critical mass represented by SMEs as job-creators), and common Community and national instruments for assisting firms in the utilization of such results;
- to encourage the use of **information technology** as a means of enhancing the efficiency of an overall coordination system underpinned by reliable, improved, basic statistics;
- to give more consideration to the **external aspects of cooperation** in relation to other developed areas (USA, Japan).

Gist of the Opinion

The Opinion highlights certain major weaknesses in Community policy: the lack of coordination at various levels of RTD activities and strategies in Europe, and the comparatively limited capacity to convert scientific and technological achievements into industrial and commercial successes.

The Opinion therefore calls for a **coordinated drive to translate technology into growth and employment**, and to ensure that policies, instruments and practices are mutually consistent.

This means coordinating Community research and technological innovation policy, national RTD policies and all other Community policies and instruments, in order to enhance economic and social cohesion and revive the jobs market.

There will also be a need for systematic exchange of information on EU research and technological innovation activities.

The Opinion advocates the setting-up of a network of open, readily accessible databases on proposed national research and innovation initiatives. This strategy should be decided jointly by the Research and Industry Councils (including CREST members) and European Parliament, working in an effective and transparent manner.

Pursuant to Article 130p of the Treaty, the Opinion calls for better dissemination of RTD activities by:

- promoting a coordinated European environment in respect of national tax incentives;
- stimulating further intertwining of research and industry, via a favourable legal framework;
- establishing new mechanisms and Commission Task Forces to ensure the viability of key industrial projects (the car of the future, new generation aircraft).

Turning to **international cooperation**, the Opinion advocates consultation prior to international meetings and a continuous exchange of information on Member States' bilateral RTD cooperation agreements with third countries and international organizations.

The Opinion considers that the coordination hub of **industrial association projects** should be moved upstream. It proposes the following new method:

- in parallel with the specific programmes and under the Framework Programme, a range of industrial association projects should be set up, with research players deciding their priorities within the objectives already established by the Community;
- the criteria for these projects must be clearly defined and published in advance.

The Commission would select and coordinate the project, and inject the funds needed to make it viable. It would also monitor its progress and submit annual reports to the Council, Parliament and ESC.

The adoption of formal packages of industrial association projects would be the responsibility of the Council and European Parliament, after consulting the ESC. An accelerated decision-taking procedure would be used.

The Opinion ends by proposing a number of measures designed to provide a **coordinated Community policy framework for effective research and innovation**:

- protection of new multimedia technologies and the information society;
- improved transparency of Community and national regulations;
- strengthening of enterprise policy for SMEs (administrative simplification, improvement of the legislative and tax environment);
- procedures for joint use of regional and RTD policy instruments;
- support for a training policy to adapt skills to technological progress;
- a consistent framework for international RTD cooperation, external economic relations policy and development cooperation (joint programmes with eastern Europe and the Mediterranean nations).

The Opinion begins with a series of **recommendations** for the coordination of RTD policies, calling inter alia for:

- an overhaul of the existing bodies implementing Community research programmes, to ensure that they meet the need to link national and Community policies;
- creation of a network for the systematic exchange of relevant information;
- preparation of "Tableaux de Bord" giving a general overview of the measures adopted by each EU Member State and providing a systematic comparison;
- development, under the Framework Programme, of industrial association projects involving bottom-up coordination;
- definition of common criteria for the inclusion of industrial association projects in a "package deal", for formal approval by the Council and European Parliament;
- creation of inter-DG Task Forces for each project;
- promoting of inter-company cooperation and the free movement, exchange and trade of technology - especially between SMEs - in order to provide better access to world markets;
- encouragement for the creation of a genuine internal market for RTD and technological innovation.

4. PAC/ EMPLOI (*Own-initiative Opinion*)

Opinion of the Economic and Social Committee on the Impact of the CAP on the employment and social situation of farmers and farmworkers in the European Union

(CES 1165/95)

Rapporteur : Mr Hans-Joachim WILMS (Germany - Workers);

Co-Rapporteurs : Mr André LAUR (France - Various interests) and Mrs Maria Luísa SANTIAGO (Portugal - Employers)

Reasons for drawing up the Opinion

The Opinion will form part of the work on employment being carried out by various Committee Sections. It should:

- firstly, provide a useful update on the information report and Own-initiative Opinion drawn up on 18/19 December 1985 and 21/22 May 1986 (Rapporteur: Mr LOJEWSKI) on the effects of the CAP on the social situation of farm workers in the EC;
- secondly, include a chapter taking up the conclusions of the Section's information report on agricultural insurance in the EU (Rapporteur: Mr MANTOVANI), adopted in Verona on 17 May 1994. This would meet the wishes of a number of members to see the report followed up by a specific policy statement;
- thirdly, include a chapter on the position of women in agriculture.

Gist of the Opinion

The fall in common prices and the sizeable reduction of production imposed on European Union farmers by CAP Reform and the GATT Uruguay Round Agreements have had a decisive effect on employment in agriculture and in the rural areas of the Union.

The job losses, which affect mainly farm labourers but also self-employed farmers, will occur firstly in the sectors which have hitherto been heavily subsidized, with knock-on effects in the sectors which supply, or depend upon, agriculture.

Job creation is the key to survival for rural areas in the Union. Top priority must be given to combating unemployment. Safeguarding and creating jobs in rural areas requires that the possibilities afforded by agricultural policy be mixed with labour, economic, social, regional and environmental policy measures with a view to putting urban and rural areas or different economic sectors, on an equal footing. Accordingly, policy instruments such as the Structural Funds should be constantly reviewed so as also to make full use of the major employment potential of rural areas.

New labour market opportunities and possible sources of income could be created by

- improving the infrastructure of rural areas (which is also one of the most important prerequisites for the other proposed measures);
- rewarding special environmental achievements in farming over and above the normal obligations;
- supporting agriculture based on sustainability and ecological considerations (e.g. organic farming);
- developing the regional marketing and processing of agricultural produce into high-quality foodstuffs;
- promoting the cultivation of agricultural and forestry products to provide renewable raw materials for use in technology and energy production (e.g. by means of tax incentives);

- implementing large-scale reforestation programmes in regions where agriculture is no longer viable; programmes to combat forest fires;
- improving the condition and care of woodland;
- making use of the opportunities afforded by biotechnology;
- developing rural tourism;
- developing service-sector jobs in rural areas (ranging from nature conservation and upkeep of roads to the use of information technologies e.g. in "teleworking");
- large-scale promotion of skills-acquisition measures.

In the context of promotion of employment in farming and the rural world, the European institutions have been called upon to recognize the occupational status of women farmers by modifying Directive 86/613/EEC so as to recommend that Member States accord independent rights to the spouses of self-employed workers.

In order to enable women to take on new tasks in the conservation and development of rural areas, support should be given to the establishment of social services in the areas of care for children and the elderly, transport, health, stand-in services, women's employment promotion and enterprise consultation centres.

Finally, there seems to be a very urgent need for initiatives to encourage the transposition into the national law of all the Member States of standards on protection at work, assistance on safety techniques and occupational medicine for family farm holdings.

5. WORKING TIME (*Own-initiative Opinion*)

Opinion of the Economic and Social Committee on *Working Time*

(CES 1166/95)

Rapporteur: Mrs H.C.H. van den BURG (The Netherlands - Workers);

Co-Rapporteur: Mr Francis J. WHITWORTH (United Kingdom - Employers)

Main points of the Opinion

Radical re-thinking is taking place on the subject of working time. By the end of the millennium the conventional five-day/forty-hour working week is likely to be the exception rather than the norm.

The Own-initiative Opinion of the Economic and Social Committee approaches the issue of working time from the following angles:

- the reorganization and extension of operating time in the production process and of opening time in the services, and the accompanying flexible scheduling of employees' working time, with a view to improving productivity, service to consumers, and competitiveness;
- the reduction of working time of the individual worker, with a view to improving the quality of life, especially as regards health and safety, extension and redistribution of time for family and caring tasks and increase of leisure time;
- the potential contribution which reduction and reorganization of working time can make to job creation and redistribution and thus to the reduction of unemployment, the key priority of the European Union.

Working patterns are becoming less and less "standard"; the full-time working week with fixed working days from Monday morning to Friday afternoon has become less and less common and suitable. Changes in both demand and the supply of labour imply that management of working time (both with respect to the number and the scheduling of hours) has become an important feature in negotiations between employers and workers, collectively and at the individual level.

At the macro-economic level a more suitable matching of workers' and employers' needs seems to be a major instrument in steering labour market and employment. A reduction and redistribution of work does not necessarily have negative effects on productivity; on the contrary, if it is dovetailed accurately with the flexibility demands of the production process and with possible reorganization of work schedules and patterns, a substantial productivity growth and an increase of competitiveness might result, which as such might improve the employment situation.

The Committee's contribution to the European debate on reduction and reorganization of working time, and national, local, enterprise- or branch-level actions, is based around the following themes:

- the relation of working time to productivity and its consequences for wage costs and incomes;
- the reduction of working time in relation to redundancies;
- the relation between developments in working hours and segregation on the labour market between "men's work" and "women's work";
- the possible effects and models of leave arrangements of a substantial size on employment opportunities for the jobless, replacing workers on leave;
- the possible contribution of gradual retirement and (pre-) pension schemes;
- maximum working hours and overtime;
- arrangements to implement voluntary changes in working hours in contractual relations;
- equal treatment of workers irrespective of the number of hours worked;
- accompanying adaptations of social security, pension schemes and fiscal systems with a view to removing disadvantageous effects on changes in, and especially reduction of, working hours, and possible incentives in these fields.

The Committee's conclusions are as follows:

Reorganization and reductions of working time, can offer a significant contribution to the improvement of the **employment** situation. The management of working time is an increasingly important issue for negotiation between employers and employees, at all levels.

Collective agreements also offer an opportunity to find a better balance between the interests of different groups of workers and to narrow the developing segregation between "core" and "peripheral" workers.

There is **no single uniform model of reduction and reorganization of working time** which the European authorities can issue by "decree". There is however a compelling case to promote "**made-to-measure**" working time options. These "made-to-measure" working proposals must accommodate the differentiation and diversification of individual workers' needs plus their changing "lifetime" options with respect to the quantity of working hours and working patterns. Such proposals should also match the varied and diverse flexibility requirements of modern production and service processes, and should enhance the firm's productivity and competitiveness and the promotion of more employment.

It is in the mutual interest of employers and employees to reach a balance between individual interests from both sides, and to shape the conditions for such a balance collectively. **Agreements** at the appropriate levels can be reached between **trade unions** and employers to include:

- demands for a collective reduction of working hours and more access to voluntary individual reductions in working hours;
- demands for the adaptation and extension of business hours and a more flexible employment and scheduling of employees according to the needs of the production process or the demands of customers.

The **gap** between traditional **part-time jobs** and exclusively **full-time jobs** will be **narrowed**, when substantial and extensive part-time jobs with adequate living incomes become an attractive option. This might be the case if a voluntary reduction of working hours is a real option to be achieved in all sectors, at all job levels and in all sorts of jobs and professions, without damaging or jeopardizing career and educational opportunities. Another indispensable condition is equal treatment of the part-time worker.

The difference between the hours worked by **men** and **women** will accordingly decline to the extent that voluntary, shorter working time for male workers becomes more accepted, and job opportunities for female part-time workers improve. This might also **narrow the segregation gap**. Promotion of voluntary part-time work should be directed especially towards male workers.

The principle of **equal treatment** of part-time and full-time workers, should be the starting point for "law and practice" in the European Union. Part time workers should receive the same protection as full-time workers. Proportional, pro rata, treatment should be given with respect to wages and financial compensations.

In the longer term, **more varied working patterns** will evolve: the "standard working week" may disappear, but not the guiding principle of **full employment** and the objective that ideally every person who is willing and capable should be able to get a job in the "size" he or she wants. In addition, the general trend to agree shorter (maximum or full-time) working hours in collective contracts will continue.

The reduction and reorganization of working time could have a positive effect on **public finances**. The rate of unemployment could decrease and the financial basis for taxes and social security funds broaden. Incentives from the public authorities, such as the removal of barriers to new working time patterns, adaptations in social security and pension schemes, and collective funding or reallocation of funds to stimulate the reorganization and reduction, would facilitate these positive results.

The re-organization and reduction of working time is primarily a matter in which the **Social Partners** should take the initiative, at the appropriate levels. Nevertheless the **European Union** and the **Governments** of Member States should encourage and facilitate these developments through:

- research, exchange of information and experiences, and the drafting of **guidelines**, as regards best practices, common principles, redundancy situations, implementation of the Working Time Directive;
- encouragement of the **Social Dialogue** and collective agreements, at appropriate levels, on the reduction and reorganization of working time;
- unequivocal legislation on equal treatment of part time workers drawing on the 1994 **ILO Convention and Recommendation on Part-Time Work** coupled with the Convention's early ratification by all Member States;
- **adaptation of existing legislation, fiscal, pension and social security systems** in order to remove discriminatory treatment of part-time workers and to better accommodate and possibly stimulate the variation and differentiation in working hours and patterns lifelong.

6. ECONOMIC SITUATION 1995/JOBS (*Additional Opinion*)

Opinion of the Economic and Social Committee on the *Economic Situation 1995 - Cyclical and Structural Aspects of Employment*

(CES 1167/95)

Rapporteur : Mr Roger RAMAEKERS (Belgium - Various interests)

Gist of the Opinion

The Opinion stresses the gravity of the employment situation in the EU and urges the need, in particular, to:

- achieve economic and monetary union so as to consolidate the single market;
- offset the slowdown in external demand, which has so far been the engine of growth, by boosting household consumption;
- avoid monetary turmoil in the EU so as not to jeopardize the prospects for durable growth and hence jobs;
- see that Member States' budgetary policies are geared to growth and jobs while maintaining inflation and budget deficits within acceptable limits.

The ESC also considers that in countries with a strong currency, an increase in households' disposable incomes should boost growth and, with it, jobs.

While aware that the economic situation varies from one Member State to another, the ESC is convinced that growth-led job creation should be accompanied by certain structural measures, especially investment support, the strengthening of competitiveness and help for SMEs.

Finally the ESC considers that the Community and the Member States must pursue active labour market policies, with priority being given to training, cutting non-wage costs so as to encourage hiring, reducing working time and developing labour-intensive services.

7. DERIVATIVES (*Own-initiative Opinion*)

Opinion of the Economic and Social Committee on *Derivatives*

(CES 1152/95)

Rapporteur : Mr Robert PELLETIER (France - Employers)

Objectives of the Opinion

The use of derivatives has grown considerably in Europe and worldwide since the beginning of the 1980s. It is now thought that their total value, as listed in the off balance sheet items of credit institutions and investment firms, may in some cases represent ten times the balance sheet total.

Such spectacular growth reflects the growing needs of economic operators. But because of the risks involved there has been much debate about the merits of derivatives, not only within the supervisory authorities of the Member States but also within national parliaments and the European Parliament.

The Economic and Social Committee has therefore thought it worthwhile to prepare an Own-initiative Opinion on this matter. Such an Opinion should enable the ESC to define an overall framework for its reflections and

guidelines concerning derivatives which it will be able to use in the future to respond to any requests for Opinions on specific texts.

Gist of the Opinion

In view of these objectives the ESC has restricted itself in the Opinion to analysing the risks and uses of derivatives and framing recommendations regarding rules for their use.

Derivatives are financial instruments which allow investors to cover themselves against an adverse variation or benefit from an anticipated variation in the price of an "underlying" asset. They have been introduced as an insurance against the uncertainties of the financial system, floating currencies and interest rates and the vagaries of stock and commodity markets. They are a means whereby economic operators may protect themselves against identified risks and thus concentrate on their main activity. Derivatives do not create any new financial risks but they do modify the nature and sometimes the intensity of risk.

So, for the ESC there is little doubt about the benefits of derivatives for the management and operations of financial markets. But the costs of imprudent and speculative use must be reduced. The key factor in controlling risks, in the ESC's view, lies in internal controls and in the risk monitoring procedures followed, in particular, by boards of management.

On the basis of its analysis the ESC considers that:

- the supervising of derivatives is a worldwide task, so it must be subject to rules which are adopted worldwide, and not just at EU level;
- any measures which limit international capital flows would violate the EC Treaty and lead to unwanted markets developing beyond the jurisdiction of the Member States;
- the benefits to be gained from introducing a derivatives register would be very small compared with the inconveniences. The aim of acquainting the supervisory authorities with the derivatives held in trading portfolios and the risks involved will be achieved when the Capital Adequacy Directive (OJ No. C 69 of 18 March 1991, page 1) is transposed into national law. The ESC is therefore opposed to the introduction of a register;
- strict internal procedures, based on the use of internal models by financial institutions, must be introduced for tracking and monitoring derivatives and institutions' own internal controls should themselves be properly monitored by the authorities;
- an EU-level prudential directive should be adopted for commodity derivatives.

The ESC also thinks it desirable that European framework agreements be drafted by the professional authorities concerned and that information be improved.

The ESC has deliberately limited itself to considering the implications of derivatives as regards risk and financial information. But it does not underestimate the need for some serious thinking to be undertaken on the repercussions which the growth of these markets is having on the economy and on monetary policy, especially as such instruments will play a decisive role in the transitional phase between the decision to introduce a common European currency and the scheme's actual implementation.

8. IN VITRO DIAGNOSTIC MEDICAL DEVICES

Opinion of the Economic and Social Committee on the Proposal for a European Parliament and Council Directive on in vitro diagnostic medical devices Draft decision of the EAA Joint Committee amending Annex II, technical regulations, standards, testing and certification, to the Agreement on the European Economic Area - Draft common position of the Community
(COM(95) 130 final - 95/0013 (COD))

(CES 1153/95)

Rapporteur : Mr Christoph FUCHS (Germany - Various interests)

Gist of the Commission proposal

As part of the programme to complete the internal market, the rules for placing medical devices on the market are being harmonized throughout the Community to protect patients, users and third parties. Most medical devices are covered already by the Directives on active implantable medical devices (90/385/EEC) and on medical devices (93/42/EEC).

This proposal for a Directive complements the existing legislation, covering in vitro diagnostic medical devices which, in view of their special nature, need specific provisions.

Definition

Unlike medicinal products, in vitro diagnostic devices are used outside the human body for medical examination of samples taken from the patient and can be utilized to diagnose illnesses, monitoring patients' state of health, checking the progress of courses of treatment and a whole series of other medical applications (e.g. AIDS and pregnancy tests). Users of these devices are mainly medical laboratories, doctors and pathologists, although some of them are to be used by the patients themselves (e.g. pregnancy tests).

Disparities of legislation

The current disparities between the national systems, plus those which would follow with the adoption of further national legislation in the absence of European harmonization, create barriers to the free movement of these devices in the Community, making it virtually impossible to establish any equivalent between the various national provisions in terms of health protection. From an economic point of view, there is a danger that the lack of harmonized legislation could hamper the development of this industry in the Community.

Essential requirements

Devices placed on the market must comply with the essential requirements set out in Annex 1 to ensure a high level of protection of health and safety. They must be designed and manufactured to achieve the performances stated by the manufacturers and for use for the intended medical purpose, taking account of the generally acknowledged state of the art. The essential requirements are also designed to protect users and third parties in particular against the risks posed by the physical and chemical properties of the devices and against the biological, mechanical, thermal, electrical and radiation risks posed by any energy source with which they are equipped.

Conformity assessment

The proposal is aligned on the wording for conformity assessment procedures in Directive 93/42/EEC, taking account of the specific nature of in vitro diagnostic devices and of manufacture thereof. For devices placed on the market solely on the manufacturer's responsibility, manufacturers must follow the principles of quality assurance and provide technical documentation containing proof of their evaluation of the performance of the devices.

In the case of devices for self-testing, the intervention of a notified body is necessary, which must concentrate on verification and on the performance of the devices under the conditions in which they would normally be used, taking account of the intended users.

Monitoring

The proposal provides for mechanisms to monitor the market, notably via vigilance procedures, and to take any measures to protect public interest. Monitoring is possible because all manufacturers are required to inform the competent authorities of the Member States where they have their registered place of business of the categories of devices which they market and for new devices, as specified in the proposal. The vigilance procedure implies that manufacturers will have to give notification of any malfunction of the devices which could affect patients' and users' health.

Gist of the Opinion

The Committee endorses the proposal and welcomes the approach to let the implementation of the in vitro diagnostic medical devices Directive remain in the hands of the Member States. The Committee sees this as a further indication that the concept of subsidiarity has been correctly understood by the Commission. The following comments are made:

The Committee notes that control materials for external quality assurance are expressly excluded from the scope of the Draft Directive. This should be reviewed, at least in respect of stable control materials, which are frequently in no way different from those used for internal monitoring. In the Committee's view, the Directive should embrace all control materials, irrespective of the way in which they are used in medical laboratories. Exceptions may be made in the case of preparations using fresh blood, which can only be conserved for limited periods.

In order to take account more effectively of the traceability requirement, provisions should be further tightened through the establishment of a standard by the European standards bodies CEN/CENELEC.

In the Committee's view, it is important for users to continue to participate in the work of the working parties concerned in any future development of the Directive on in vitro diagnostic medical devices.

As regards the information needed to use the products properly, the Committee considers that - particularly for self-testing devices- the "instructions for use" should be in the language of the target country so that they could be understood by the users.

9. FINANCIAL INSTRUMENT FOR THE ENVIRONMENT (LIFE)

Opinion of the Economic and Social Committee on the *Proposal for a Council Regulation (EC) amending Council Regulation (EEC) No. 1973/92 establishing a Financial Instrument for the Environment (LIFE)*

(COM(95) 135 final - 95/0093 (SYN))

(CES 1154/95)

Rapporteur : Mr Sergio COLOMBO (Italy - Workers)

Gist of the Commission proposal

Introduction

The first stage of the LIFE instrument, which was created by Council Regulation (EEC) No. 1973/92 and entered into force on 23 July 1992, comes to an end on 31 December 1995.

The present proposal meets the requirement regarding adjustments to be made to the initial regulation, with a view to continuing the action beyond 32 December 1995. **The amendments proposed are based on experience gained in the first three years of implementation of the instrument and are designed to improve the efficiency of the instrument by taking account of its specific nature and the principle of subsidiarity.**

Specific nature of LIFE

LIFE is the only instrument to provide aid to the environment throughout the Community and in bordering regions (MEDITERRANEAN AND Baltic). **Implementation of LIFE must take advantage of its specific nature and be geared to projects which warrant co-operation/co-ordination between several countries.**

Areas of activity

The Commission plans to focus the LIFE programme over the next four years on **four main areas**:

- a) priority implementation of the Natura 2000 European network;
- b) in areas other than the protection of nature, implementation of the Community environmental policy through the financing of preparatory, demonstration, technical assistance, support and promotion projects;
- c) help for Mediterranean and Baltic third countries other than associated CEECs to set up environmental administrative structures, establish policies and action programmes on the environment and take measures geared to sustainable development; and
- d) promotion of know-how and experience gained.

Budgeting of the second phase

Financing of the second phase of LIFE must take account of enlargement of the Union and of the need to maintain the aid capacity of the instrument in real terms.

Gist of the Opinion

In analyzing the present proposal amending the LIFE Regulation, the Committee would stress the crucial importance of the following: an adequate level of funding, long-term coherence, and a feasible strategy of sustainable development. It is also important, given the participatory approach and the principle of sharing out responsibilities under the Fifth Action Programme to evaluate the stimulus given to partnership schemes involving socio-economic actors and non-governmental organizations and producing multiplier effects.

Areas of activity

The Committee is in agreement with the general principle of reducing the number of areas of activity and defining them more carefully, but believes that the Commission's current choice is too restrictive and does not adequately highlight at least two areas where Community action is necessary and opportune (preventing and reducing atmospheric emissions and protecting soil quality).

In selecting projects it is important that the instrument be used to incorporate and stimulate the use of other Community support instruments, particularly in the case of sectors identified by the Fifth Programme (agriculture, energy, transport and tourism) but not paid sufficient attention to by LIFE. Examples are projects to safeguard and maintain the quality of inland waterways, and demonstration projects in rural areas designed to help reduce the environmental impact of agriculture and of the agrofood sector.

Project selection criteria

The Committee considers that the selection criteria are spelt out with sufficient clarity. To be effective, however, the priority actions and strategies within each area of activity - which applicants must take into account and adhere to when preparing their projects - must be clearly defined at an early stage of the annual publication of the invitation to submit applications.

Dissemination of information

If we are to accept that the aim of the LIFE instrument is to support "demonstration projects" and "projects setting examples" for the transfer and dissemination of findings, then we have to accept the need for strong, continuous action to ensure the dissemination of know-how and information. Account must also be taken of the need to set in motion systematic procedures for monitoring and checking on the progress of financially-supported projects so as to limit, through appropriate preventive action, the failure rate.

Socio-economic and non-governmental organizations have an important role to play in increasing transparency and improving the dissemination of information; the crucial role however continues to be played by national, regional and local authorities - where necessary through the creation of appropriate networks that are free of access and possibly funded by the Commission.

Coordination with other financial instruments

A comparison between funds available under LIFE II and environmental expenditure earmarked under other funds (Structural Funds, Cohesion Fund, RDT, Phare, Tacis, EAGGF, etc.) shows the former to be at a disadvantage. This can be explained by the specific nature of the LIFE instrument whose sole purpose is to support demonstration projects and projects serving as examples.

The Committee would therefore stress that the various financial instruments need to be closely coordinated, with uniform aims, strategies and concrete decisions, so that Community action is not contradictory and does not lead to duplication.

LIFE - even though its own financial resources are relatively modest - should play a dynamic role in stimulating and guiding all other environmental funding from a variety of Community instruments. Existing horizontal links between appropriate departments should if necessary be stepped up.

10. CONTROL OF SHIPMENTS OF WASTE

Opinion of the Economic and Social Committee on the Proposal for a Council Regulation (EC) amending Regulation (EEC) No. 259/93 on the supervision and control of shipments of waste within, into and out of the European Community
(COM(95) 143 final - 95/0107 (SYN))

(CES 1155/95)

Rapporteur : Mr José Ignacio GAFO FERNÁNDEZ (Spain - Employers);
Co-Rapporteurs : Mr Klaus BOISSEREE (Germany - Various interests) and Mr Jacques TIXIER (France - Workers)

Gist of the Commission Proposal

The proposed Regulation amends Article 16, paragraph 1 of Council Regulation (EEC) No. 259/93 on the supervision and control of shipments of waste within, into and out of the European Community to prohibit exports of hazardous wastes destined for **recovery operations** from OECD to non-OECD countries as of 1 January 1998.

This amendment implements Decision II/12 adopted by the Second Conference of the Parties to the Basel Convention in March 1994.

With respect to waste destined for **final disposal**, Article 14 of Regulation (EEC) No. 259/93 already prohibits all exports of such kind of waste to non-OECD States and Article 18 of the same Regulation prohibits all exports of waste to ACP States.

However, Regulation 259/93 **does not** currently provide for a total prohibition of exports of hazardous waste destined for **recycling or recovery operations** to non-OECD States.

Gist of the Opinion

The Committee fully agrees that it is necessary to control the shipment of waste within and outside the Community, and to avoid the uncontrolled export of hazardous waste to countries which lack the requisite instruments for detecting and neutralizing the hazards. The Committee therefore approves in principle the objective of the proposal.

However, the Committee fears that this objective can only be achieved by revising the entire body of legislation on the matter. In particular, it is concerned at the differing interpretations which surround the classification of hazardous waste, and reiterates the view of its 1991 Opinion, that the total export ban should apply to hazardous waste alone.

The Conventions, Regulations and Decisions of the different bodies (European Union, OECD, Basel Convention) are not mutually consistent. The Committee fears that discrepancies, shortcomings and overlaps may be exploited improperly or may give an active stimulus to waste exports.

Furthermore, the Committee considers that the proposed Regulation should be more flexible with regard to waste for recycling, given that the recovery of reusable materials from waste is, in principle, economically and ecologically sound.

However, the existing Regulation and the proposal (Decision II/12) of the Basel Convention indiscriminately restrict the recovery of recycling materials, when this should only be prohibited in the case of hazardous waste or of waste which is exported for recovery without sufficient guarantees that recovery will actually be effected. These guarantees can be provided by exercising strict controls, in the country of origin, on waste for recycling, together with controls on its processing in the country of destination.

11. FOOD ADDITIVES OTHER THAN COLOURS AND SWEETENERS

Opinion of the Economic and Social Committee on the *Proposal for a European Parliament and Council Directive amending Directive 95/2/EC of the European Parliament and the Council on food additives other than colours and sweeteners*
(COM(95) 177 final - 95/0114 (COD))

(CES 1156/95)

Rapporteur : Mr Kenneth J. GARDNER (United Kingdom - Employers);
Co-Rapporteurs : Mr Kommer de KNEGT (The Netherlands - Workers) and Mr Joop KOOPMAN (The Netherlands - Various interests)

Gist of the Commission proposal

Background

Framework directive 89/107/EEC established the general criteria for approval of food additives. The specific directives 94/35/EC, 94/36/EC and 95/2/EC fixed the positive list of permitted food additives.

Member States may only permit the use of new food additives, issuing from new industrial developments and which satisfy the criteria for approval, for a limited period of 2 years. In order to permit a new food additive beyond that period, obligatory Community legislation based on Article 100a has to be developed.

Aim of the proposal

The proposal aims to add a new food additive, 'Alternatively Refined Carrageenan', to Annex I of Directive 95/2/EC.

Reason

During the adoption of directive 95/2/EC in the European Parliament and the Council, the food additive "Alternatively Refined Carrageenan" was under evaluation by the Scientific Committee for Food. The Common Position was adopted by the Council before this evaluation was terminated and, therefore, this additive is not included in the positive list of food additives directives developed under the framework directive 89/107/EC; hence, it is not permitted for food use in the European Union. Since this substance seems to have an important role in the economy of the Philippines, it is necessary for the Community to take the necessary legal steps in order to permit this substance for food use, since the evaluation of the Scientific Committee for Food has shown that there is no risk for public health and that there is a demonstrated technological need.

Gist of the Opinion

The Committee approves the proposal subject to the following changes:

The Commission needs to find a more meaningful name to "alternatively refined carrageenan". This name should be clearly different from E 407 carrageenan in order to avoid confusion.

The Committee suggests "Eucheuma Gum" as a possibility.

Furthermore, the E number should be clearly different from that used for carrageenan, possibly E 408.

12. MERGER CONTROL

Opinion of the Economic and Social Committee on the *Review of the Community Merger Regulation*

(CES 1157/95)

Rapporteur : Mr Jens Peter PETERSEN (Germany - Employers)

Background

The first review of the Merger Regulation was conducted in 1993. The result of that exercise was a Report to the Council², in which the Commission concluded that there were strong economic arguments in favour of a lowering of the turnover thresholds. However, the Commission thought that it would be prudent to gain further experience of the operation of the Merger Regulation before making any proposals for revision. It therefore decided to retain the current rules and to re-examine the thresholds before the end of 1996. These conclusions were endorsed by the Council in September 1993.

In view of the Inter-Governmental Conference, 1996 will be an extremely busy year for the Member States and the Community institutions. It is therefore appropriate to start the review of the Merger Regulation sooner, rather than later, to ensure that the commitment given by the Commission in 1993 will be respected.

² Community merger control - Report from the Commission to the Council on the implementation of the merger regulation, COM(93) 385 final.

The review of the existing turnover thresholds will be one of the more important elements of the exercise. In addition, the Commission will take the opportunity to examine other areas in which the Regulation could be improved or clarified.

The Commission services have already begun collecting the information necessary for the review. As in 1993, it intends to carry out a survey of companies that have been or are likely to be engaged in merger activity. National industry and similar associations, as well as advisers to companies who deal with regulatory competition bodies at either a national or a European level, will also be consulted.

The fact-finding will be completed and a discussion paper will be drafted. Formal consultation of the Member States, of the European Parliament and the Economic and Social Committee, as well as interested third parties will take place in the autumn. It is hoped that the Commission will be in a position to examine these comments and finalize its proposal to the Council at the end of this year.

During the fact-finding stage and prior to formal consultation, the Commission is to contact the Member States and the Community institutions, in order to seek their views on the revision. The Commission must work with them to ensure that responsibilities in the area of merger control are shared according to the principle of subsidiarity, set out in Article 3(b) of the Treaty on European Union.

The Commission notes with interest the Committee's support for a reduction of the turnover thresholds (expressed in the Opinion of 6 July 1994, OJ No. C 388 of 31/12/1994) and looks forward to a thorough exchange of views between both institutions later this year, which, hopefully, will lead to the Committee's endorsement of the Commission's proposals.

Before this debate takes place, the Commission would welcome any suggestions as regards the review of the Merger Regulation that the Committee may wish to make.

Gist of the Opinion

In its Opinion on the subject adopted on 6 July 1994, the Committee urged lower thresholds. In concrete terms, the Committee recommended a phased reduction of the main threshold (worldwide turnover) from ECU 5 bn. to ECU 2 bn. It also suggested lowering the threshold for Community turnover from ECU 250 million to ECU 100 million and dropping the two-thirds criterion (Article 1(2) of the Regulation).

Extending the scope of European merger control

Basically, the Committee holds to what it said in last year's Opinion. Various factors continue to bear out the Committee's views. It would therefore also make reference to the statements and reasoning given in that Opinion.

Advantages of the "one-stop shop" principle

The Committee would once again emphasize the great advantage of the one-stop principle, by which a single authority - in this case the Commission - assesses planned mergers uniformly over a short period of time and has exclusive Community-wide competence.

Subsidiarity and merger control

Subsidiarity is usually cited as an argument against extending the scope of European merger control and against lower thresholds. The Committee emphasizes the relevance of the subsidiarity principle to mergers within a single EU Member State. It makes sense for such cases to remain within the competence of the Member State in question.

However, the two-thirds criterion (Article 1(2) of the Regulation) used for this purpose is unsatisfactory from the point of view of integration and competition policy. Under this criterion, whole sectors fall outside the Commission's merger control remit in certain cases.

Should the turnover criterion continue to determine which is the competent authority?

The Committee is aware that the existing rules, whereby the Community-wide significance of a proposed merger is measured solely by reference to the total turnover of the undertakings involved, result in an approximate and rather crude method for the division of powers between state and Community authorities.

There are problems with credit and other financial institutions. The Committee can see definite advantages in the suggestion that the "turnover" criterion estimated on the basis of balance-sheet assets should be replaced by the "concept of banking income" as defined in Directive 86/635. The technicalities of calculating banking income require further detailed study however.

Even so, the Committee feels that the turnover criterion has proved its worth as a means of allocating jurisdiction between Member States and the Commission. The legal certainty argument is the most compelling in favour of maintaining the turnover criterion. In any case, other criteria, such as the size of the company (e.g. number of employees), have already proven to be impracticable.

Keeping to the "crude" turnover criterion does not rule out the development of more refined arrangements for allocating jurisdiction. Such fine-tuning will presumably be essential once thresholds are appreciably lowered. The Committee feels that, in this case, the future "division of labour" between the Commission and the EU Member States should hinge first and foremost on which markets the proposed merger will mainly affect.

Improved cooperation between the Commission and EU Member States

First of all, the Committee recommends closer cooperation and better coordination between the Commission and competition authorities in the Member States. Such arrangements (which are still to be developed) should be based on the following considerations. Notified mergers which demonstrably affect only local and regional markets should in future be decided on solely by the competition authority of that Member State. Proposed mergers with a Community-wide impact should be assessed and decided on by the Commission alone. This leaves those cases which, while territorially confined to one Member State, nevertheless have implications for the internal market. Clearly, it is this last type of merger which necessitates closer cooperation between the Commission and Member States. The authorities of individual states must provide the Commission with all their specialist information on these markets. Only then will the Commission be in a position to make an informed decision, within the short time allowed, as to whether or not the notified merger poses problems for the common market.

Referral of a planned merger to another competition authority

The Committee has already called on the Commission to retain the narrow interpretation of the referral provision. In the Committee's view, Article 9 of the Regulation constitutes an exception to exclusive Community competence and, as such, should be interpreted narrowly. However, the Committee maintains that any relaxation of Article 9 could mark a trend towards renationalizing European competition policy. Even if the thresholds are lowered to the level urged by the Committee, relaxation of Article 9 should be permissible under two conditions: i) the merger should affect only local or regional markets in a single Member State; and ii) the Member State concerned should assess the merger in accordance with Community merger control rules and not with its own competition rules.

Referral of notified mergers should of course be a two-way street. The Committee feels that, in certain cases, the Member States should be obliged to submit notified mergers to the Commission for appraisal.

The need to simplify procedures

Lower thresholds will certainly increase the Commission's workload.

The Committee urges considerable simplification of the procedure for all mergers which have no appreciable bearing on the common market. This will lead to less red tape for undertakings and greater economy of operation

at the Commission. The Committee sees this as particularly appropriate in two types of case, namely "de minimis" joint ventures and mergers outside Community territory.

Correct competition controls essential

A well run appraisal procedure is crucial for the credibility of competition control. The criteria are the current market situation and whether the merger creates or strengthens a dominant position, as a result of which effective competition would be significantly impeded in the common market or in a substantial part of it (Article 2(2) of the Regulation).

The ESC has repeatedly asked the Commission not to demarcate the market (too) narrowly, either in business or geographic terms. The ESC is somewhat puzzled by the response to its July 1994 Opinion, in which the Commission claims that market delimitation in merger control is based on Articles 85 and 86 of the EC Treaty, which refer to past events, a planned merger requires the Commission to assess, i.e. predict, the future impact on market structure. For the ESC, it is this crucial difference which justifies wide market delimitation.

The Commission should take a greater account of the international competition situation than hitherto. The Committee points out with regret that the Commission has recently become increasingly restrictive in this respect, e.g. with regard to the delineation of the relevant markets. This applies in particular to European merger control, but also to the anti-trust ban. The Committee therefore calls on the Commission in applying the competition rules, to take greater account than hitherto of the actual competitive situation on non-Community markets. In other words what is required is an economic analysis worthy of the name.

Lastly, the ESC points out that, despite a Commission Notice on the subject, the definition of a concentrative joint venture is still causing problems in practice.

13. 5TH ANNUAL STRUCTURAL FUNDS REPORT (1993)

Opinion of the Economic and Social Committee on the *Fifth Annual Report on the implementation of the reform of the Structural Funds 1993*
(COM(95) 30 final)

(CES 1158/95)

Rapporteur : Mr Jan Jacob van DIJK (The Netherlands - Workers)

Gist of the Commission document

This fifth annual report on the implementation of the reform of the Structural Funds has been compiled pursuant to Article 16 of Regulation (EEC) No. 2052/88, as amended, as amplified by Article 31 of Regulation (EEC) No. 4253/88, as amended. It presents the activities of the Structural Funds and the use of their budgetary resources, together with their contributions to achieving the priority objectives of the reform of 1988.

In view of the closure of the first programming period (1989-1993), the Commission deemed it appropriate to compile an initial assessment - a provisional one, as yet - of the implementation of the reform of the Structural Funds.

The document is divided into five chapters.

Chapter I therefore presents the first results available for the first period of the reform (1989-1993), with special attention being paid to the implementation of the principles of operation of the Funds in the course of that period.

Chapter II presents an assessment of the activities of the Funds, for each Objective and country, endeavouring to summarize those activities both for the period 1989-1993 as a whole and for the year 1993.

Chapter III is devoted to budget execution and the contribution made by the other financial instruments to the operations of the Structural Funds. It draws attention to the controls carried out in the Member States under Article 23 of Regulation (EEC) No. 4253/88.

Chapter IV deals more directly with the requirements of Article 31 of Regulation (EEC) No. 4253/88, as amended. It thus considers the evaluation of the major productive investment projects implemented in the period 1989-1993, and the compatibility of Structural Fund assistance with the other Community policies; it presents the further action taken in response to opinions of the European Parliament, the Economic and Social Committee and the Committees of the Funds, and the participation of the social partners in the course of the period 1989-1993.

It should be noted that in this report the Commission presents the follow-up given to the opinions of the institutions and other committees, and in particular to the Opinions of the Economic and Social Committee; a specific part of the report is dedicated to the participation of the economic and social partners from 1989 to 1993.

Finally, Chapter V gives a presentation of the revised regulations for the period 1994-1999, and the initial application of them in the course of the year 1993.

Gist of the Opinion

After some general remarks and a reminder of the concerns already expressed in previous Opinions, the Opinion focuses on such points as the principles of additionality and concentration, the harmonization of regional policy with other EU policies, the involvement of the social partners and the coordination of national regional policies with European regional policy.

14. INFRASTRUCTURE COSTS/ROAD FREIGHT TRANSPORT (*Own-initiative Opinion*)

Opinion of the Economic and Social Committee on *Infrastructure costs in the road freight transport sector, as a basis for a comparison with other transport modes*

(CES 1159/95)

Rapporteur : Mr Dethmer H. KIELMAN (The Netherlands - Employers)

Purpose of the Opinion

The Own-initiative Opinion aims to evaluate infrastructure costs in relation to how users are charged for the use of infrastructure. In anticipation of a Green Paper due to be published by the European Commission, the Committee should also consider the external costs of different forms of transport.

This evaluation can be justified by:

- the need to abolish distortions of competition within and between modes;
- the fact that strict application of the principle of territoriality (regarded by the Commission as the ultimate goal) requires knowledge of the fixed costs, variable costs and the external costs and benefits associated with (the use of) infrastructure;
- the need for the external benefits of infrastructure, such as the positive influence it exercises on the investment climate and the mobility of labour, to be included in the costs to be allocated to transport;
- the ongoing debate surrounding the "Eurovignette" system.

Furthermore, this analysis of infrastructure costs in the road freight transport sector will serve as a basis for comparison with other modes of transport.

Gist of the Opinion

The Committee thinks it desirable for infrastructure and external costs to be fully allocated to the different modes in a fair, uniform manner. Internalization of these costs can help the transport modes to achieve optimum infrastructure use and ensure an optimum modal split. The corresponding administrative work should be kept to a minimum.

In its Opinion, the Committee attempts to define the concept of infrastructure costs so as to provide a basis for a comparison of the infrastructure costs of different transport modes; it also identifies the following problems relating to the determination of infrastructure and external costs and their allocation to the transport modes:

- the methodology used to determine these costs;
- the acquisition of the necessary data;
- the need for agreement on the constituent elements of infrastructure and external costs;
- the need for countries to operate a system of compensation as long as the direct allocation of costs to the individual user is not (technically) possible.

15. TELEMATICS/TRANSPORT (*Own-Initiative Opinion*)

Opinion of the Economic and Social Committee on the *Communication from the Commission to the Council and the European Parliament on Telematics applications for transport in Europe* (COM(94) 469 final).

(CES 1160/95)

Rapporteur : Mr Dethmer H. KIELMAN (The Netherlands - Employers)

Gist of the Opinion

The purpose of the communication just published by the Commission on "Telematics Applications for Transport in Europe"³ is to define measures for the development of telematics infrastructure in all modes of transport, together with proposals for deployment which can:

- secure more efficient, safer and less polluting transport operations;
- open up the transport market for telematics services and products benefiting industrial efficiency;
- encourage the promotion of new public-private partnerships for implementing telematics applications in the transport sector.

For this purpose this communication gives an overview of activities at Community level, on-going or envisaged, in the field of deployment of telematics systems and services for transport. The need for operational recommendations and for a deployment action plan is emphasized, and a first outline of required actions by the Community is proposed.

The overall agenda for these actions is therefore targeted on:

- development of the Telematics Infrastructure;
- defining priority telematic applications in the transport sector;
- R&D activities related to Transport Telematics;
- setting up a coordination framework for promoting the necessary actions.

³ COM(94) 469 final

Following the Communication on the Information Society in Europe, this Communication covers one of the first areas of application for which more detailed proposals for action have been drawn up.

Given that the Committee has not been formally consulted - although on p ii of the Communication, the Commission "invites ... the Economic and Social Committee to debate the issue" - the importance of the subject warrants an Own-initiative Opinion, since, as the Commission itself acknowledges, these applications offer a means both of improving network and traffic management and of providing high-quality, added-value transport services.

Gist of the Opinion

Existing telecommunicatinostechnologies with Europe-wide standards have already proved excellent for specific telematics applications in transport. In the Committee's view, to improve safety, reduce pollution, avoid congestion and improve vehicle utilization, we should act forthwith to create the political framework and develop the Europe-wide preconditions necessary for the implementation of the system, which can then be left as far as possible to the private sector.

Sectoral cost/benefit considerations are conducive to private-sector initiatives by both systems providers and users in the transport telematics sphere. Macro-economic cost/benefit considerations must accommodate political and social imponderables; nevertheless, the discussion on objectives, means and effects must be conducted as honestly and objectively as possible, taking into consideration the opinions of all those concerned.

The Committee feels that the development of trans-European transport networks provides a good opportunity to clarify goals and establish a political framework and the conditions necessary for using telematics in transport. This opportunity should be turned to good advantage.

Telematics applications in transport are undoubtedly an important investment for the future of Europe. The Committee therefore deems it essential that we consolidate and build upon our technological advances through practical application.

16. AMENDMENTS TO JET STATUTES

Opinion of the Economic and Social Committee on the *Proposal for a Council Decision approving amendments to the Statutes of the Joint European Torus (JET), Joint Undertaking*
(COM(95) 234 final - 95/0136 CNS)

(CES 1161/95)

Rapporteur working alone : Mr John LYONS (United Kingdom - Workers)

Gist of the Commission proposal

The Joint European Torus (JET) undertaking was set up at Culham (UK) by the Council on 30 May⁴. The purpose of JET, according to Article 1 of the Council Decision, is "to construct, operate and exploit, as part of the Community Fusion Programme and for the benefit of the participants therein, a large torus facility of Tokamak type and its auxiliary facilities ... in order to extend the parameter range applicable to controlled thermonuclear fusion experiments up to conditions close to those needed in a thermonuclear reactor".

JET is thus a crucial element of the Community Fusion Programme strategy for progressing towards its long-term objective of the joint construction of safe and environmentally sound prototype reactors.

⁴ Decision 78/471/Euratom - OJ L 151 of 07.06.78, p. 10

JET was initially set up for twelve years but this period has been extended twice - in 1988⁵ to 31 December 1992 and in 1991⁶ to 31 December 1996.

In a declaration issued on 23 March 1995, the JET Council - which represents all the present sixteen members of JET - confirmed that all JET objectives could be reached by the end of 1996.

The Decision of 8 December 1994 adopting the specific fusion research and teaching programme (1994-1998)⁷ recognized, however, that "substantial new scientific and technical arguments have been identified ... which speak for the continuation of JET's operation beyond 1996".

The Decision thus explicitly envisaged the possibility of an extension to enable JET to provide scientific and technological support for the construction of an international thermonuclear experimental reactor (ITER) by Euratom, the USA, the Russian Federation and Japan.

The ITER project has entered its second phase with the start of detailed design work (EDA - European Design Activities).

The principal purpose of the present Draft Decision is to extend JET to 31 December 1999. This extension has been endorsed by the Consultative Committee for the Fusion Programme (22 March 1995) and by the Euratom Scientific and Technical Committee (28 March 1995).

In its Opinion of 14 September 1994⁸ on the Draft Decision on the fusion programme (1994-1998), the Committee reserved its position on a possible extension pending the review then under way of the future of JET after 1996.

The other changes to JET statutes set out in the Draft Decision result from:

- application to join JET by the Technology Development Centre of Finland;
- Swedish accession to the European Union (Sweden had previously been an associate member of the Community fusion programme and a member of JET through the Swedish Natural Science Research Council);
- the need to align the terminology of the JET statutes on the European Union Treaty.

Summary of the Opinion

The Committee approves all the amendments to the JET statutes.

More specifically, it notes that the proposal to extend the life of the joint enterprise does not involve any change in the total expenditure allocated to the implementation of the 1994-98 fusion programme. Having already approved this expenditure, including the appropriations to cover the cost of extending the JET, the Committee sees no reason to query the Commission proposal.

⁵ Decision 88/447/Euratom of 25.07.88 - OJ L 222 of 12.08.88, p. 4

⁶ Decision 91/677/Euratom of 19.12.91 - OJ L 375 of 31.12.91, p. 9

⁷ Decision 94/799/Euratom - OJ L 331 of 21.12.94, p. 22

⁸ OJ C 393 of 31.12.94, p. 139

17. FISHERIES/FINANCIAL CONTRIBUTION

Opinion of the Economic and Social Committee on the *Proposal for a Council Decision on a Community financial contribution towards certain expenditures incurred by the Member States in implementing the monitoring and control system applicable to the common fisheries policy* (COM(95) 243 final - 95/0142(CNS))

(CES 1168/95)

Rapporteur-General : Mr Jesús MUÑIZ GUARDADO (Spain - Various interests)

Gist of the Commission proposal

The common fisheries policy (CFP) includes a general and integrated monitoring system. Each Member State is responsible for monitoring fishing activities on its territory and in the areas of sea over which it has sovereignty or jurisdiction. Each Member State has appointed authorities to carry out this monitoring in line with the applicable common rules. Given that this monitoring is of a nature that goes beyond the protection of purely national interests and that the investment necessary to develop the appropriate equipment for monitoring and surveillance, in particular seagoing and airborne equipment, has in some cases exceeded the financing available under national budgets, the Council has been making a growing financial contribution since 1978 to the expenditure incurred by the Member States. After an intermediate stage, the support has been organized on the basis of Council Decision 89/631/EEC of 27 November 1989 on a Community financial contribution towards expenditure incurred by Member States for the purpose of ensuring compliance with the Community system for the conservation and management of fishery resources. This Decision has covered the period from 1991 to 1995 and has enabled the Community to contribute between 35% and 50% towards the expenditure incurred by the Member States.

The Council has undertaken to adopt before 30 June 1995, on the basis of a Commission report, the provisions for Community participation that could apply from 1 January 1996. When the new inspection and monitoring rules were adopted at the end of 1993, the Council reinforced this undertaking by emphasizing the need also to support the new elements in these arrangements.

The objective of the present draft Council Decision drawn up on the basis of a Commission report, is to meet the Commission's obligation laid down in Decision 89/631/EEC, while taking account of the changing context.

The Commission proposal formalizes the report's conclusions on the future Community financial contribution to expenditure incurred by Member States. In addition to the contribution to investment expenditure, it is now planned to make the financing of integrated projects possible from the beginning, in contrast to the previous Decision, which needed to be amended to allow the financing of pilot projects for the continuous tracking of fishing vessels by satellite. The draft Decision also provides for support for a set of measures promoting training and staff exchanges. This will make it possible to act not only on technical and regulatory aspects, but also to raise awareness of the issues involved in inspection and monitoring among those working in the field and better to train and motivate the agents responsible for monitoring. The proposed Decision also takes account of the need to formalize the Council's undertakings to Ireland. The extended guarantees of effectiveness and transparency are laid down in specific clauses.

In conclusion, taken together, all the measures and operations reflect a more global and integrated approach to the management and monitoring of the CFP. This approach will help to make the fishing industry itself more responsible for management and will reinforce the role of the authorities both at Member State and Community level.

Gist of the Opinion

The Committee emphasizes that control of fishing activities is a vital aspect of the CFP. Effective, fair and transparent controls can improve compliance with the present rules, reduce the wastage caused by overfishing and help ensure the survival of this sector of the Community economy.

The Committee takes the view that control policy can only be successful if the Member States implement it fairly and effectively. However, given the disparities which still exist, the Committee considers that the desired level of efficacy will only be achieved by increasing the powers and means of control of the relevant Community authorities.

The desired objectives will only be achieved if adequate financial resources are allocated to them. The Committee feels that the Community budget allocation for control activities remains inadequate.

In order to allow Member States to assume their Community obligations regarding controls and organize the related investments with certainty, the Committee calls for greater flexibility in the administration of the available funds.

The Committee would like the percentage of the Community contribution to remain the same as in the earlier Council Decision 89/631.

18. FISHERIES/MONITORING OF CATCHES

Opinion of the Economic and Social Committee on the Proposal for a Council Regulation (EC) amending Regulation (EEC) No. 2847/93 establishing a control system applicable to the common fisheries policy

(COM(95) 256 final - 95/0146 (CNS))

(CES 1169/95)

Rapporteur-General : Mr Michael P. STRAUSS (United Kingdom - Various interests)

Gist of the Commission proposal

Council Regulation (EC) No. 685/95 of 27 March 1995 on the management of the fishing effort relating to certain Community fishing areas and resources provides, with effect from 1 January 1996, for the introduction of a system for managing fishing effort in ICES areas Vb, VI, VII, IX and X and CECAF areas 34.1.1., 34.1.2. and 34.2.0.

In accordance with that Regulation, the Commission has proposed fixing maximum annual levels of fishing effort per fishery for each Member State.

Regulation (EC) No. 685/95 provides for the implementation of appropriate control mechanisms to accompany the introduction of such a resource management system.

It is necessary to add to the control measures already in existence so as to include measures aimed at the monitoring and inspection of fishing activities which are subject to limits on fishing effort.

Such measures will be kept to the minimum necessary in order to ensure, at Community level, that the system for managing fishing effort is enforced in an equitable and non-discriminatory manner. It will be for each Member State to apply a system of regulating fishing effort which it has itself devised in order to ensure effectively, at national level, that vessels flying its flag abide by the limits on fishing effort.

The present Commission proposal faithfully reflects the provisions on control laid down by the Council in Regulation (EC) No. 685/95.

The Commission therefore proposes amending Regulation (EEC) No. 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy. It is proposed that a Title IIA on the monitoring of fishing effort to supplement Title II which deals with the monitoring of catches in the context of TACs and quotas be added.

This Title IIA proposes in particular to:

- monitor the movements of Community vessels in fisheries;
- create Community infrastructures for data management;
- monitor fishing effort at fisherman's and Member State level;
- monitor the use of fishing gear and in particular static gear.

Gist of the Opinion

The Committee supports the proposal, which it thinks should enable fishing effort in the Community's western waters to be controlled evenly.

Fishery resources in these waters are under great pressure. It is therefore imperative to protect these resources and rigorously control their exploitation. The Committee stresses that conservation rules must be applied effectively and evenly. It is also necessary to convey to fishermen that the long-term viability of their industry will depend on observance of the conservation rules. A more effective EU framework of conservation rules which all fishermen have to respect would encourage greater compliance.

The Committee therefore takes the view that fishery control necessitates greater Union involvement.

19. REVIEW OF COMMUNITY ENERGY LEGISLATION

Opinion of the Economic and Social Committee on the "Proposal for a Council Regulation repealing Regulation (EEC) No. 388/75 on notifying the Commission of exports of crude oil and natural gas to third countries"; "Proposal for a Council Regulation repealing Regulation (EEC) No. 1055/72 on notifying the Commission of imports of crude oil and natural gas"; "Proposal for a Council Regulation repealing Regulation (EEC) No. 1038/79 on Community support for a hydrocarbon exploration project in Greenland"; "Proposal for a Council Decision repealing Recommendation 79/167/ECSC, EEC, EURATOM on the reduction of energy requirements for buildings in the Community"
(COM(95) 391 final - 95/0214 (CNS) - 95/0215 (CNS) - 95/0216 (CNS) - 95/0217 (CNS))

(CES 1170/95)

Rapporteur-General : Mr Claus-Benedict von der DECKEN (Germany - Various interests)

Gist of the Commission proposals

The proposals on which the Committee has been consulted fall within the framework of a review of Community energy legislation and represent a first step towards its streamlining and simplification. As a result, they are accompanied by a report entitled "A review of Community energy legislation".

So far, the Commission has confined its examination of this legislation to just two sectors, namely **the rational use of energy and the oil sector**. Moreover, its analysis covers only part of the relevant corpus, being limited to seventeen basic legislative acts adopted, for the most part, between 1972 and 1976 (15 by the Council and 2 by the Commission).

As a result of its examination, the Commission is recommending the repeal of ten of these acts and retention of the remaining seven, albeit for only a limited period in three cases. The repeal of eight of the ten instruments will necessitate Council intervention. In four cases it will also be necessary to consult the Committee. The eight proposals in question are set out in a Communication accompanying the Commission report.

The Commission justifies its repeal proposals, seven of which relate to rational energy use and three to oil, mainly on the grounds that the acts in question have either lost all usefulness or have been overtaken by the Community legislative process.

Council endorsement of the Commission conclusions would also entail the repeal of four implementing Regulations, one of which was adopted by the Council and three by the Commission.

At the same time, the Commission is proposing the revision and simplification of Council Regulation (EEC) No. 1056/72 as amended by Regulation (EEC) No. 1215/76, on the Communication to the Commission of investment projects of Community interest in the oil, natural gas and electricity sectors with a view to improving its readability and, as a result, maximizing the usefulness of the information collected. This proposal, on which the Economic and Social Committee has also been consulted, is set out together with its explanatory memorandum in a separate Commission document (COM(95) 118 final).

These documents represent the first manifestation, in the energy sector, of the undertaking given by the Commission at the Brussels European Council in December 1993 not only to review all Community legislation with reference, in particular, to the principle of subsidiarity, but also to propose its streamlining and simplification at the appropriate time in order to free the European economy of the burden of pointless or excessive legislative rigidity, guarantee the usefulness of the legislation in question and improve its readability.

This concern to streamline and simplify Community legislation, which originated at the Lisbon and Edinburgh European Councils of June and December 1992, has produced a response, in particular, from the Energy Council which, at its meeting of 29 November 1994, invited the Commission to present a report evaluating Community energy legislation together, where appropriate, with proposals for its streamlining and simplification.

As the Commission itself points out, this review of energy legislation will be extended to sectors not covered by the present report.

Gist of the Opinion

The Commission's review of Community legislation in the energy sector is an exercise which is both useful and timely. In the interests of greater transparency, it would have been preferable for the Commission to have indicated who drew up the list of instruments to be reviewed, how the list was drawn up and why the measures concerned were selected.

The Committee would also like to see a brief description given of the energy-policy background to this review and warns against the danger of EU energy policy being called into question should this review, under the guise of a drive to prune and simplify legislation, lead to a wholesale repeal in some areas of Community energy legislation.

More specifically the Committee has taken due note of the reasons for the proposed repeal of the legislation and endorses these proposals.

Broadly speaking, the Committee's analysis of the report has led it to put forward a number of general recommendations to the Commission and the Council.

The repeal of the instruments in question smacks more of an exercise in "tidying up" legislation than of a measure which will help genuinely to simplify existing Community legislation. The fact that most of the instruments in question are already obsolete serves to confirm this interpretation.

Consequently, the Committee would urge that, wherever appropriate, all new legal instruments should include provisions repealing existing legislation which is thereby rendered obsolete.

In several cases, the Commission does not provide adequate reasons for proposing that some of the legal instruments in question remain in force. The fact that they have been only partially superseded by the

development of the legislative process is not, to the Committee's mind, in itself an adequate reason for retaining them.

The Committee recommends that, in subsequent reviews, the Commission should make reference, if only briefly, to both the substantive and administrative reasons behind its decision to keep these laws on the statute book. To this end, the laws should be reviewed bearing in mind both the EU's energy objectives and the specific objectives of the instruments themselves.

Such a step would also meet the need for transparency which should, in the Committee's view, be the prime consideration in any review of current Community legislation.

The Committee notes that the Commission also recommends keeping several laws on the statute book on a temporary basis, on the sole grounds that they have yet to be replaced by measures which are more appropriate and accord better with the rules set out in the Treaties and with secondary legislation; this is despite the fact that these same laws are for the most part no longer of any practical value, and hence there is no longer any research for them to exist.

This being the case, the Committee wonders whether consideration should not be given to the repeal of legal instruments whose retention, even temporarily, is unwarranted in terms of benefit to the Community.

More specifically, the Committee notes that the instruments which the Commission is recommending be kept on the statute book on a temporary basis, are all the measures designed to enable the European Union to cope with supply problems in respect of oil and derivative products.

In so far as the Commission's current arsenal of laws for coping with energy crises is not confined to the instruments reviewed in the Commission Report, the Committee calls for the swift adoption of a new set of laws in this field which would (a) meet the needs of the internal market, (b) take account of the structural changes in the oil market over the last twenty years and (c) tie in closely with the measures provided for within the framework of the International Energy Agency.

The adoption of such legislation should make a significant contribution to pruning and simplifying Community legislation in this area and also help to equip the European Union with the essential, appropriate instruments to cope with any energy supply difficulty without delay and allow it to manage such situations effectively.

Finally, the Committee would point out that it fully endorses the Commission's intention to extend its review of Community energy legislation to sectors not covered by the present Report.

20. ELECTRICITY SECTORS

Opinion of the Economic and Social Committee on the Proposal for a Council Regulation (EC) on notifying the Commission of investment projects of interest to the Community in the petroleum, natural gas and electricity sectors
(COM(95) 118 final - 95/0083 (CNS))

(CES 1172/95)

Rapporteur-General : Mr Jean PARDON (Belgium - Employers)

Gist of the Commission proposal

The proposal referred to the ESC forms part of a revision of Community energy law, representing a first step towards simplifying the legislation.

In response to the European Council meeting in Edinburgh on 11 and 12 December 1992, the Commission gave an undertaking to check and adapt legislation in force, in accordance with the subsidiarity principle, and to amend it accordingly. Even though Regulation 1056/72 was not on the list drawn up by the Council, the Commission considered it important to analyze the usefulness of this regulation.

A preliminary assessment by the Commission, by the agreement of the Member States, concluded that the Regulation is needed. However, in keeping with the principle of proportionality, the Commission recognizes that the obligation imposed on the industry to supply the Member State with the data collected, even if the Member State prefers to use another more efficient source, goes further than necessary and imposes administrative constraints out of proportion with the benefits which can be expected. The net result is, therefore, that the Regulation loses effectiveness.

To remedy the difficulties encountered in implementing the Regulation and, where appropriate, guarantee that the information collected is of maximum use, the Commission proposes repealing Regulation (EEC) No. 1056/72 of the Council, as amended by Council Regulation (EEC) No. 1215/76, and combining the two Regulations into a new Regulation; at the same time it announces its intention to simplify its implementing Regulation (3025/77/EEC).

The principal differences between the new proposal and the existing Regulations (EEC) No. 1056/72 and (EEC) No. 1215/76 are:

- extension of the deadlines, for the submission of information by individuals and enterprises to Member States, from 15 February to 15 March of each year, and for Member States submitting information to the Commission, to 15 April;
- the inclusion of investments in desulphurization plants for all petroleum products;
- the inclusion of gas pipelines and trans-European networks;
- a shorter list of data in the Annex.

At the same time, the Commission proposes to repeal several pieces of legislation in the field of the rational use of energy and petroleum. These proposals are incorporated in a separate Commission document (COM(95) 391 final); four of them require referral to the Committee prior to adoption.

Gist of the Opinion

The Committee welcomes the updating of the present legislation in a new regulation on **investment projects of interest to the Community in the petroleum, natural gas and electricity sectors.**

However, the Committee considers that the information requested under the regulation should comply solely with the requirements of energy-policy and equipment-manufacture planning, with a view to helping improve environmental protection.

The Committee welcomes the amendments, as regards both the reduction of the quantity of information required and the extension of the deadlines for reaching the Commission.

The Committee also recommends:

- facilitating the functioning of the Internal Market in energy;
- respecting the principle of transparency and administrative simplification in the procedure for obtaining information;
- revising Regulation 3025/72 to include the European Parliament and the Economic and Social Committee among the recipients of the summary to which reference is made;

- extending the obligation to provide information to thermal power stations of under 200 MW.

21. FIELD OF EMPLOYMENT

Opinion of the Economic and Social Committee on the *Communication from the Commission and Proposal for a Council Decision on the Commission's activities of analysis, research, cooperation and action in the field of employment*
(COM(95) 250 final - 95/0149 (CNS))

(CES 1173/95)

Rapporteur working alone : Mr Christoforos KORYFIDIS (Greece - Various interests)

Outline of the Commission document

This communication follows the European Council Summit in Essen in December 1995. It constitutes a contribution to all the actions carried out by the various bodies of the Union in favour of employment promotion. The proposal for a Council decision aims to establish a legal basis (Article 235) for the activities to be carried out in this field.

Given the results of the action taken in recent years, the Commission deems it necessary to underpin the multilateral monitoring process - recently proposed to the Council in application of the Essen European Council decisions - revising and reinforcing its activities of analysis, research cooperation and action in the employment field.

This change, which was announced in July 1994 in the Commission's White Paper on European Social Policy and was only recently reiterated with the adoption of the social action programme, aims to set up new guidelines to foster closer collaboration between the Commission and Member States on analysis, research, cooperation and action in the field of employment and labour-market policy, providing the Commission with the necessary legal basis to pursue its activities in this field. Such a coordinated approach should, while avoiding too much fragmentation, render more effective the measures taken by the Member States and by the Union.

The main objectives of this proposal are as follows:

Capitalizing on experience gained hitherto.

Promoting a renewed approach to analysis, research, cooperation and action in the field of employment thanks to:

- a better knowledge of the labour market and of employment policies;
- a contribution to pinpoint and transfer best practices;
- an active policy in disseminating results.

Promoting partnerships at all levels.

Gist of the Opinion

The Opinion makes a number of general points which emphasize the fact that employment is a major challenge for the European Union. After drawing attention to the main lines of Community action in this field and the Committee's earlier work on employment and unemployment, the Opinion makes some specific comments, on the following questions among others:

- the usefulness of the measures proposed by the Commission to implement the Essen decisions, with a view to better understanding of all the aspects and causes of employment problems;

- the importance of workers' access to in-service training;
- the role which the social partners should have in setting priorities among the measures planned by the Commission;
- the special attention to be given to the position of the groups worst affected by unemployment;
- employment and the Inter-Governmental Conference.

22. SINGLE CURRENCY

Opinion of the Economic and Social Committee on the *Green Paper on the Practical Arrangements for the Introduction of the Single Currency*
(COM(95) 333 final)

(CES 1174/95)

Rapporteurs : Mr Umberto BURANI (Italy - Employers), Mr Bernard de BIGAULT du GRANRUT (France - Various interests) and Mr Michael GEUENICH (Germany - Workers)

Gist of the Commission proposal

On 31 May the Commission adopted its Green Paper on the practical arrangements for the introduction of the single currency. The Green Paper is the first comprehensive survey of the technical and legal problems involved in the introduction of the European currency.

The Green Paper does not put forward a definitive scenario for the introduction of the single currency, but is a contribution towards the discussion of the technical aspects of the introduction of a common European currency. The core of the Green Paper is a reference scenario, in the light of which the technical and legal aspects are examined. The reference scenario envisages introduction of the single currency in three Phases:

1. **Phase A:** The European Council decides to launch the single currency.
2. **Phase B:** Launch of Economic and Monetary Union, with the exchange rates fixed irrevocably. An increasing number of transactions should be carried out in the new currency (creation of a critical mass, leading to a point of no return).
3. **Phase C:** Final transition to the single currency, which becomes the sole means of payment.

Re. 1):

Phase A starts with the decision of the Council to introduce monetary union, as provided for under Articles 109j and 109l of the Treaty. At the same time, the Council must also set the deadline for the final changeover to the single currency. The aim of this phase is to identify the decisions and measures needed for Phase B of monetary union.

At the start of Phase A, the following points should have been settled:

- the legal framework for the introduction of the single currency
- the format and the technical characteristics of banknotes and coins.

In each Member State, a central coordination office should be set up to monitor the changeover to the single currency. Moreover, a changeover plan geared to each country's needs should be set up, in order to determine the speed and scope of the technical adjustments.

Re. 2):

The start of phase B will involve the changeover to the third stage of economic and monetary union, as enshrined in the Treaty on European Union; this will begin when the Council irrevocably fixes the exchange rates, and the European Central Bank and the European System of Central Banks assume responsibility for monetary policy. Thus, according to the European Commission's view, the change-over process would gather such a pace, with the creation of a critical mass of transactions in the common currency, that it would be irreversible. Most private customers of banks would, however, continue to use their national currency during Phase B.

Re. 3):

The completion of the changeover to the single currency would continue in Phase C, and would involve the following:

- exchange of banknotes and coins
- the single currency becomes the sole means of payment
- the transition in the banking and financial systems is completed.

Gist of the Opinion

Support for the Commission move to implement and facilitate transition to a single currency. Transition should be as speedy as possible, taking account of the market's capacity to adjust smoothly to change, the need to minimize costs, and insofar as the extent to which EMU is used to boost job-creating growth.

Pragmatic approach to practical problems: directives and regulations only when strictly necessary.

Need for outline scenario so as to predict the situation of countries granted exemption, indicating what measures will have to be taken to avoid monetary disruption and particularly the emergence of an unbridgeable gulf between these countries and those that have joined the single currency system.

Need for stringent application, with a political vision, of admissibility criteria; political derogations only possible if they do not endanger the future stability of the single currency.

Enhancement of the role of the ECB: the independence provided for in the Treaty should be translated into practical terms.

Starting date, and duration, of the various phases, to be announced as soon as possible. However, once established, no variation should be allowed. The market needs certainty, not conjecture.

Support for the "critical mass" solution. The components must be clearly indicated and defined, without repercussion on the markets: the banking sector should operate as an interface between the national currency and single currency as soon as it is in a position to do so and payment systems have been adapted for that purpose.

Adoption of the single currency may disturb the financial, monetary and securities markets. Regardless of assurances to the contrary - hopefully warranted - the authorities are responsible for anticipating possible destabilizing speculation and determining the necessary counter-measures.

Acceptance of the possibility of a gradual market transition to the single currency during phase B, on condition that this is entirely voluntary, that decisions are taken in full knowledge of the costs and benefits, and that competition is not unduly distorted.

The costs of transition to the single currency should be borne and apportioned according to the rules of the market, with intervention only when really necessary.

Need to set up, as soon as possible, a sound legal framework to underpin the single currency. In particular, the non-renegotiability of contracts and the validity of conversion rates on the securities and exchange markets (both European and non-European) must be guaranteed.

Framing of effective legislation against forging and using single currency banknotes in the fight against organized crime, including alternatives or substitutes for money.

Recognition of the role of the public authorities in transition to the single currency, especially with the issue of government bonds immediately after the start of phase B. However, care should be taken during this phase, in relations with the market, to avoid partial or full change-over to the single currency which can cause disruption. This applies particularly to the tax authorities and social security.

Consumer interests must be heeded and protected as part of the overall policy of transition to the single currency. In particular:

The consumer must be made aware of Europe's aim in adopting a single currency, the advantages he stands to gain and the way the transition to the new currency will be organized. Here a joint, coordinated drive, involving the Commission, the Member States and companies, in particular banks, will be necessary.

The consumer must be able to reap the benefits of the single currency at minimum cost. The Commission and the Member States, though refraining as far as possible from imposing regulations, will have to show great vigilance in ensuring that this condition is respected.

The consumer should be able to familiarize himself with use of the single currency even before it comes into force and check that the conversion rates are strictly applied. The Commission and the consumer associations have pinpointed one single way of achieving this result: dual indication of prices and charges on bills, banking documents and payslips. Businesses object that the mandatory dual pricing requirement can generate additional costs, extra paperwork and organizational complications. While reserving the right to return to this matter, the Committee cannot ignore the justification, in principle, of such arguments. The consumer rights referred to above must be protected but a balance has to be found with the rest of the market, including alternatives which achieve the same results.

Effective training, education and communication strategies are needed.

In the case of training, responsibility will devolve to the Commission, Member States, sectoral organizations and individual companies, in turn. By ensuring coordination, duplication of tasks will be avoided.

Education must be provided in schools of all levels and types, with the single currency taught as a specific subject.

Communication strategy calls for a separate, specialist study, enlisting all available aids. However, as it is likely to be extremely expensive, a careful assessment will be needed of the potential impact in relation to the aids available. The business sector - especially banks - will play a key role in getting the message across to consumers.

23. EQUAL TREATMENT FOR MEN AND WOMEN - SOCIAL SECURITY SCHEMES

Opinion of the Economic and Social Committee on the Proposal for a Council Directive amending Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes
(COM(95) 186 final - 95/0117 (CNS))

(CES 1175/95)

Rapporteur : Mr Pierre CHEVALIER (France - Various interests)

Gist of the Commission Communication

This proposal for a Directive aims to ensure that Directive 86/378/EEC on equal treatment for men and women in occupational social security schemes, adopted on 24 July 1986, is consistent with Article 119 of the Treaty as interpreted by the Court of Justice.

In its **Barber** judgement of 17 May 1990 and in subsequent interpreting judgements, in particular its judgement of 14 December 1993 (Case C-152/91 *Moroni*), the Court of Justice of the European Communities acknowledges that all forms of occupational pension - and, in turn, all forms of benefit deriving from employees' occupational social security schemes - constitute an element of pay within the meaning of Article 119 of the EC Treaty, which provides for equal pay for men and women.

Since Article 119 of the Treaty is directly applicable and may be relied upon by individuals before the national courts against public and private employers, it does not permit any derogation from the principle of equal treatment. Consequently, certain provisions of Directive 86/378/EEC of 24 July 1986 on equal treatment for men and women in occupational social security schemes, providing for derogation from the principle of equal treatment (particularly with regard to retirement age and survivors' benefits, Article 9 of Directive 86/378/EEC) are now invalid as far as paid workers are concerned, since such persons can invoke Article 119 of the Treaty before national authorities, this Article being a provision of primary law which prevails over Directive 86/378/EEC, the latter being only an instrument of secondary legislation. It is clear that Article 119 of the Treaty does not apply to self-employed workers, in respect of whom Directive 86/378/EEC remains wholly valid.

In the interests of legal certainty and clarity, and in order to avoid any confusion for the national authorities which are required to apply Community law, the Commission is therefore compelled to put forward this proposal for a Directive amending Directive 86/378/EEC in order to ensure consistency with Article 119 of the Treaty. The proposed amendments serve only to transpose the case law of the Court, and this proposal for a Directive is of a purely declaratory nature. The legal basis chosen is Article 100 since the proposed amendments relate only to paid workers.

Gist of the Opinion

The Committee welcomes the proposed amendments, subject to the following comments:

- the Committee acknowledges that the proposed Directive makes for greater legal certainty and clarity and that it is likely to ensure that national authorities are not confused on a number of points. The Committee also acknowledges that the proposed text will help to ensure greater fairness and will dispense with the need for numerous appeals and lawsuits;
- the Committee notes that the proposed Directive only concerns schemes for particular categories of workers (occupational schemes). It calls for a clear definition of occupational schemes in relation to statutory schemes, having regard to Article 119 as interpreted by the Court;
- the Committee approves the proposed amendment to Article 3 of Directive 86/378 under which workers' legal successors are to be included in the scope of the new Directive. It notes that it is to be obligatory for workers' contributions to be equal, whereas the employers' contribution is to be the subject of negotiations between the employer and his workers;
- the Committee has extremely serious reservations about Article 2 of the proposed Directive which defines the procedures for implementing the new text. It thinks in particular that the provisions regarding retroactivity are cumbersome and complicated;
- the Committee urges that consideration be given to equal treatment in the field of social security in all ongoing or future work on part-time working, youth unemployment, new forms of work and social protection provisions.

24. STRENGTHENING RELATIONS BETWEEN THE EU AND MERCOSUR (*Own-Initiative Opinion*)

Opinion of the Economic and Social Committee on *EU - Latin America relations: strengthening relations between the EU and MERCOSUR*

(CES 1176/95)

Rapporteur : Mr Sergio E. SANTILLAN CABEZA (Spain - Workers)

Gist of the Commission's Communication

On 19 October 1994, the Commission approved a Communication on its proposed strategy for strengthening ties with MERCOSUR, which comprises Argentina, Brazil, Paraguay and Uruguay.

The Commission's long-term aim is to establish an inter-regional EU-MERCOSUR association based on a balanced, mutually supportive political, economic and trade partnership. It would entail the gradual establishment of a free-trade area in industrial goods and services, the gradual liberalization of agricultural trade in both directions (with due account for the sensitive nature of certain products), and greater cooperation, inter alia in the political domain.

To pave the way for the inter-regional association, the Commission proposes the conclusion in the short term of an inter-regional framework agreement covering trade and economic cooperation.

The General Affairs Council of 29 November 1994 called upon the Commission to submit to it the negotiating brief for such an agreement, with a view to negotiation and signature before 1995. The Ministers suggested that the Essen European Council approve these guidelines.

The ESC feels that an additional Opinion on strengthening relations with MERCOSUR would be an appropriate extension of the work of the Committee on Latin America.

It also proposes holding a hearing with representatives of Latin American socio-economic organizations, which could be funded by using the rest of the subsidy obtained from the Commission in 1993 for the dialogue with Latin America.

Gist of the Opinion

The Committee welcomes the proposed strengthening of relations between the EU and MERCOSUR.

In the Committee's view all economic and social sectors in both the EU and Mercosur will benefit from the enhancement of the EU's policy towards Mercosur by the introduction of an EU-Mercosur inter-regional framework agreement on trade and economic cooperation.

Since the EU is MERCOSUR's principal trading partner, the agreement will also be advantageous from the point of view of longer-term EU commercial strategy and it will promote EU investment.

The Committee considers that special attention should be paid to the institutional dimension of EU-MERCOSUR relations in the final text of an EU-MERCOSUR agreement.

As part of its institutional structure, MERCOSUR is to establish an inter-regional consultative body known as the Economic and Social Forum. The Forum, whose establishment will have to be ratified by the national parliaments will enable sectors of civil society to express their views to the decision-making bodies of MERCOSUR.

The Committee considers it desirable that, as an important element of inter-regional relations, regular, institutionalized meetings should be held between the ESC and the Forum.

The Committee recommends that the EU and MERCOSUR should exchange experience regarding social models in both continents with a view to improving them in order that inter-regional trade may bring about a more equitable distribution of wealth and an improvement of the social situation.

The process of integrating MERCOSUR is supported by the business community and the trade unions. While supporting the overall process of MERCOSUR development; the trade unions of the four countries also consider it indispensable that the *social dimension* of integration be developed.

To offset the dangers of social dumping within MERCOSUR, in December 1993 the MERCOSUR trade union movement produced a proposal for a "*MERCOSUR Charter of Basic Rights*".

In general terms, the Committee thus endorses the strategy to conclude an inter-regional framework agreement with MERCOSUR, recognizing that the arguments underlying the proposals of the Commission are sound in terms of the strategic significance of the sub-region.

Questions arise with regard to the compatibility, in the longer term, of, on the one hand, an inter-regional association involving the gradual establishment of a free-trade area and, on the other hand, WTO rules.

Under WTO rules, an EU-MERCOSUR free trade agreement would only be allowed if the accord was intended eventually to lead to fully reciprocal free trade.

The elimination of all tariff barriers in the industrial and agricultural sectors could prove problematic.

The Committee wishes to express its concern that an EU-MERCOSUR free trade agreement should be compatible with the Union's international obligations as regards the WTO, while conforming to the norms of the CAP.

The agreement should also make provision for the exchange of experience on labour matters and issues of social protection.

With regard to the **framework of dialogue between the EU and Latin America**, the question arises as to how, in practical terms, an enhanced dialogue with MERCOSUR can be made compatible with the existing dialogue established via the annual ministerial meetings between the foreign ministers of the EU and those of the countries of the Rio Group, which has played an important role in coordinating Latin American positions at a region-wide level.

25. INTERIM EVALUATION 5th ENVIRONMENT PROGRAMME (*Own-initiative Opinion*)

Opinion of the Economic and Social Committee on the *Environment and Sustainable Development - An interim evaluation of the 5th Community action programme on the environment*

(CES 1177/95)

Rapporteur : Klaus BOISSEREE (Germany - Various interests)

Purpose of the Opinion

The fifth action programme is dedicated to all parties involved in environmental policy. Of these, the programme makes a special reference to the social categories represented at the Economic and Social Committee (and consequently not just the Member States, local authorities and the European Community).

The action programme, on which the ESC has presented a detailed Opinion (1 July 1992), provides for an evaluation of the programme itself at the end of 1995.

It would also seem advisable to prepare an interim report for the social categories represented at the ESC, and - bearing in mind the requests made in 1992 - put forward proposals for further extension of the programme. The Commission has already produced a similar document (30 November 1994) outlining its point of view (COM(94) 453).

Gist of the Opinion

After the first two years of implementation of the Fifth Community Action Programme on the environment and sustainable development, the Committee is cautious in its assessment of the Action Programme.

In the Committee's view the Action Programme fails to make an adequate linkage between economic and environmental requirements, in spite of the thorough appraisal of this linkage set out in Chapter 10 of the White Paper on Growth, Competitiveness and Employment.

The Committee draws attention to a number of obstacles standing in the way of implementation of the Action Programme, such as:

- the fact that the definition of "environmental policy actors" is so imprecise makes it impossible effectively to allocate responsibilities;
- the absence of a system of indicators of sustainable and environmentally-sound development;
- the lack of transparency and the shortcomings of the programme as regards dialogue with citizens and consumers.

The Committee considers that the review of the Action Programme should provide the opportunity to enhance and clarify the body of economic and legal instruments required for implementing a Community environment policy.

The Committee urges that the environmental protection aspect be regarded as an integral part of all Community policies and, as such, be borne in mind not just in the policies to promote growth and employment but also in international trade policy.

With a view to the revision of the Treaties, the Committee calls for (a) the co-determination procedure to be extended to cover all areas of environmental policy and (b) the relationship between Article 100a (internal market) and Articles 130r et seq. (environmental policy) to be clarified.

26. EUROPEAN ENERGY CHARTER TREATY (*Own-initiative Opinion*)

Opinion of the Economic and Social Committee on the *European Energy Charter Treaty*

(CES 1178/95)

Rapporteur : John LYONS (United Kingdom - Workers)

Aim of the Opinion

The Energy Charter Treaty was signed in Lisbon on 17 December 1994 and provides a binding legal framework for the principles and objectives contained in the European Energy Charter signed three years earlier.

This Treaty has been signed by the European Communities and, to date, by 49 European and developed countries from the rest of the world. It not only constitutes a central plank in the security of the EU's energy supply, but is also a force for political, economic and social progress in the central and eastern European and CIS countries, in that it enables them to develop their energy potential.

To enter into force the Treaty must be ratified by at least thirty countries. As this cannot be achieved by mid-1996, the EU and most of the signatory countries have agreed to apply the Treaty provisionally, insofar as the provisions concerned do not contravene the constitutions and national laws in force on the date of signature.

The main provisions of the Treaty may be summarized as follows:

- **Foreign investments** must be accorded treatment no less favourable than that accorded to domestic investors ("national treatment") and that accorded to investors of any other contracting party ("most favoured nation treatment"). Provisions also cover the employment of key personnel, the transfer of capital and returns, compensation for expropriation and losses caused by war and civil disturbance.
- For **trade in energy products** contracting parties who are not members of GATT will now enjoy GATT rights and also undertake GATT obligations. (The main GATT provision not applied through the Energy Charter Treaty are rules on binding and negotiating tariffs which are unworkable in the energy sector alone. Instead there is a "best endeavours" commitment which calls upon contracting parties not to raise tariffs above the level notified when signing the Treaty.)
- The Treaty requires the contracting parties not to impede the establishment of new capacity if **transit** in existing capacity cannot be achieved on commercial terms. It also provides for transit to continue uninterrupted in the event of a dispute until a process of conciliation has been completed.
- Each party is required to apply and enforce **competition law**.
- As far as the **environment** is concerned, the Treaty embodies the principle of "the polluter pays" and promotes the objective of market-oriented pricing which fully reflects environmental costs and benefits.
- Each party has **sovereignty** over its energy resources and also the right to decide geographical areas within its area to be made available for exploration and development.
- The Treaty has its own **dispute settlement machinery** provided for disputes over all provisions except those on competition and the environment. In a dispute between an investor and a state, the investor has the right to choose to submit it to international arbitration.
- **Direct taxes** will continue to be governed by each country's domestic legislation, together with the provisions of any relevant bilateral tax treaties.

The Protocol on energy efficiency and related environmental aspects was also signed on 17 December 1994 and is to enter into force on the same date as the Treaty itself⁹.

In April 1991 the Committee issued an initial Own-initiative Opinion on a draft of the European Energy Charter presented by the Commission. In this Opinion the Committee expressed its total support for the process which was getting under way and approved the objectives pursued, the actual concept of a charter and the principles upon which it was to be based¹⁰.

The preparation of the present Own-initiative Opinion provides the Committee with another opportunity to give not only its assessment of the situation three years on from its first Opinion and of the progress made in consolidating the principles contained in the European Energy Charter, but also its views on future developments, and in particular the forthcoming work of the Energy Charter Conference.

⁹ The texts of the Energy Charter Treaty, the Protocol on energy efficiency and related environmental aspects and the two Council Decisions of 15 December 1994 on the provisional application of the Energy Charter Treaty by the European Community and Euratom were published in OJ L 380 of 31 December 1994.

¹⁰ OJ C 269 of 14 October 1991, page 79

This work includes in particular the negotiations on:

- the signature of a supplementary Treaty concerning the legal arrangements to be applied in the pre-investment phase;
- the extension of the Treaty's provisions to energy equipment;
- the incorporation in the Treaty of the new GATT provisions on trade;
- the conclusion of a Declaration covering the nuclear sector.

The Committee could also discuss other matters concerning the operation of the Energy Conference Secretariat and the financial and human resources allocated to it, insofar as they directly affect the implementation of the Treaty itself.

As the Energy Charter Treaty is a critical factor in shaping general economic policies between the EU and non-EU European countries, this Opinion could help to reinforce the Committee's image in the minds of those European countries which have signed association agreements and usefully foster the dialogue between the Committee and, in particular, the socio-economic organizations of central and eastern Europe.

Gist of the Opinion

The Committee considers that the signing of the Treaty on the Energy Charter on 17 December 1994, only three years after the signing of the European Energy Charter, has to be one of the Union's major successes.

The signing of the Treaty offers the Committee an opportunity, more than three years after having delivered an initial Own-initiative Opinion to comment on the progress which has been made and on a number of significant questions to which this progress has given rise. The main questions examined include:

- Ratification of the Treaty

Considering the mutual benefit which the European Union and Russia should be able to derive from the implementation of the Treaty, Russian ratification is not only vital to ultimate success but is of major importance to Russia's own efforts to modernize its economy and establish itself as a stable democracy.

This is why the Committee is worried about the real danger that the ratification procedure may not be completed before the end of the year, i.e. before the end of the term of office of existing Russian deputies. Given the delays which would inevitably occur if this turned out to be the case, without taking into consideration the uncertainties of the outcome of the ratification procedure itself, the Committee calls upon the European Union to give Russia every possible assistance in this area. The Committee also takes the view that consideration now has to be given to the implications of ratification possibly being put back until the new Duma meets next year.

The situation with the United States is quite different since this country decided, for reasons which the Committee spells out, not to sign the Treaty although it took part in the negotiations. As far as the USA is concerned, the question of ratification does not arise. The Committee nevertheless considers that it is in the mutual interest of the European Union and the United States to make appropriate arrangements so that the representatives of the USA may participate, at least with observer status, in future negotiations on the implementation of the Treaty.

- Euro-Mediterranean relations in the energy field

Even if the energy sector is of strategic importance in the relations being established and developed with the Mediterranean countries, none of these countries ever took part in the negotiations leading to the European Energy Charter and it is highly unlikely that any of them will one day seek accession to the Treaty.

The Committee nevertheless considers it encouraging that a dialogue and closer links are now being established between these countries and the EU, notably via the Barcelona Euro-Mediterranean Conference in November 1995.

In this context the Committee calls upon the European Union to make a sustained effort to seek to bring about the active, practical identification of these countries with the aims and objects of the Energy Charter Treaty.

- **Protocols and Declarations**

Article 33 of the Treaty authorizes the negotiation of a number of protocols (legally binding) or declarations (not legally binding) in order to pursue the objectives and follow the principles of the Charter.

So far only one Protocol - on energy efficiency and related environmental aspects - has been signed. A second Protocol should have been signed on the peaceful uses of nuclear energy but a decision was taken at the end of negotiations to transform it into a Declaration.

The Committee then recalls the reasons which led to changes in the legal nature of the document, namely the conclusion of a legally-binding convention on nuclear reactor safety under the auspices of the International Atomic Energy Authority (IAEA). Having examined the content of the two texts the Committee notes that although the Declaration covers a wider field than the IAEA Convention, the Declaration does not have a monitoring or regular review mechanism.

Despite these differences the Committee notes that the coexistence of two international agreements on nuclear safety is not perhaps a satisfactory situation. It therefore considers that a possible resolution of the difference might be to widen the scope of the IAEA Convention to cover the full range of issues covered by the Declaration so that in the end there is only one set of minimum international safety standards for civil nuclear energy.

- **The extension of the Treaty**

Article 10 of the Treaty deals with the protection of existing investments. The fourth paragraph of this Article provides for the negotiation of a supplementary Treaty on new investment, with a view to its conclusion by 1 January 1998.

The Committee strongly recommends that the supplementary Treaty, which will subsequently be incorporated in the main Treaty, should contain provisions on the need for good industrial relations in all enterprises and activities to which the Treaty applies. So far such provisions are missing from the Treaty. An example of this is the text of the OECD Guidelines for Multinationals.

- **Funding and staffing levels of the Secretariat of the Charter Conference**

Since the Secretariat of the Charter Conference is responsible for managing the Treaty, the Committee considers it essential that the Secretariat is given the financial and human resources necessary for carrying out the tasks falling to it.

The Committee therefore regards it as essential that the adequacy of the structure, staffing and resources of the Secretariat is reviewed at the time the ratification process is approaching its conclusion.

27. THE PHARE PROGRAMME (*Information Report*)

Information Report on the *PHARE* programme

(CES 1281/94 fin)

Rapporteur : José Ignacio GAFO FERNÁNDEZ (Spain - Employers)

Explanatory memorandum of the Information Report

The EU's PHARE programme is making the world's most meaningful contribution towards political and economic reform in the central and eastern European countries.

EU aid usually takes the form of non-repayable grants. The emphasis is on sectoral programmes rather than on financing individual projects. Initially, financing has mainly been for technical aid.

The PHARE programme has been increasingly criticized in the central and eastern European countries, chiefly for the excessive cost of technical aid and its doubtful effectiveness. **Technical aid** will remain a major part of the programme, but the EU hints that in future some PHARE funds may be used for investments in infrastructure projects and joint ventures.

Conditionality will play an important role in future and steps towards reform will be assessed in the PHARE Annual Report. Where PHARE funds are paid out very slowly or where a country has decided to change its reform programme, PHARE disbursements will be adjusted to such developments.

The EU has decided to increase the **paying-out rate** in the PHARE programme.

Where recipient countries are well advanced along the path of reform and have concluded **Europe Agreements** with the EU, steps will be taken to link PHARE work to the agreements so as to deepen relations.

Gist of the Information Report

The Information Report describes the new framework for relations between the European Union and the countries of Central and Eastern Europe, and then goes on to outline the PHARE programme.

As a starting point for this assessment, the ESC has used the documents drawn up by the Commission together with the views of the socio-occupational organizations of the PHARE countries, who were able to express their opinions during a public hearing in Brussels on 18 and 19 May 1995.

All the socio-occupational organizations from the PHARE countries pointed to the need to put bilateral relations with the Economic and Social Committee on an official basis, along the lines established by the hearing.

The Economic and Social Committee fully supports some of the new guidelines recommended by the Commission. It supports the new multi-annual approach, and considers all action to implement the White Paper on the development and harmonization of these countries' legislation to the "*acquis communautaire*" to be essential, including the social aspects.

One of the most pressing problems facing the PHARE programme is inadequate staffing, obliging it to rely heavily on temporary staff. This lack of resources could be remedied either by assigning extra staff or by closer coordination between the Directorate-General for External Economic Relations and the other Commission services.

The views of the socio-occupational organizations could carry greater weight in the process of defining PHARE programme priorities and follow-up activities.

There must be greater transparency in the procedures for selecting businesses for award of contracts.

The Regional and Cross-Border Cooperation Programmes are an important element in connecting these countries to each other and to the European Union. The Committee considers that such programmes are the most appropriate recipients of exceptional infrastructure investment under the PHARE programme.

For other types of infrastructure, PHARE intervention could be used for economic viability studies.

One exception to this principle might be to set up an environmental protection fund.

At the same time, dissemination of earlier experiences and advice, and of Community legislation, should be encouraged, possibly by setting up a PHARE Information Centre in each of the countries concerned.

A further priority area might be represented by training programmes aimed at executives, universities, and vocational training as a whole.

The Committee also believes that specific action on the transfer of the results of Commission-funded research should be taken.

Lastly, new impetus should be given to partnership activities aimed at EU and PHARE SMEs.

II. FUTURE WORK

Industry Section

- Operation of the single market - 2nd report
COM(95) 238 final
Deadline: November
- Action programme to strengthen the competitiveness of European industry
COM(95) 87 final - 95/0081 CNS
Deadline: November
- Aid to shipbuilding
COM(95) 410 final - 95/0219 CNS
Deadline: November
- Multiannual programme to stimulate the development of a European multimedia content industry (INFO 2000)
COM(95) 149 final - 95/0156 CNS
Deadline: December
- Community customs code
COM(95) 335 final - 95/0182 COD
Deadline: December

Transport Section

- Guidelines for trans-European telecommunications networks
COM(95) 224 final - 95/0124
Deadline: November
- Granting of aids for transport by rail, road and inland waterway
COM(95) 377 final - 95/0204 SYN
Deadline: November
- Statistics on carriage of passengers, freight and post by air
COM(95) 353 final - 95/0232 CNS
Deadline: November
- Mobile and personal communications
SEC(95) 1382 final
Deadline: December

- Interconnection in telecommunications (ONP)
COM(95) 379 final - 95/0207 COD
Deadline: December/January
- Opening of the telecommunications market to competition
C(95) 1843
Deadline: December
- Organization of the inland waterway transport market and supporting measures
COM(95) 199 final - 95/0121-122-123 SYN
Deadline: December

Social Questions Section

- Fourth framework programme concerning safety, hygiene and health at work
COM(95) 282 final - 95/0155 CNS
Deadline: November
- Social security schemes for employed persons, self-employed persons and members of their families moving within the Community
COM(95) 352 final - 95/0196 CNS
Deadline: November
- Right of third-country nationals to travel in the Community
COM(95) 346 final - 95/0199 CNS
Deadline: December/January
- Protection of workers from the risks related to exposure to carcinogens at work
COM(95) 425 final - 95/0229
Deadline: January

Agriculture Section

- Common organization of the market in rice
COM(95) 331 final - 95/0203 CNS
Deadline: November
- Monitoring measures applicable to fishing activities carried out in the waters of the Baltic Sea, the Belts and the Sound
COM(95) 249 final - 95/0223 CNS
Deadline: November

ANTICIPATED

Environment Section

- Sweeteners for use in foodstuffs
COM(95) 482 final
Deadline: February
- Community action programme on health monitoring
COM(95) 449 final - 95/0238 COD
Deadline: to be decided

Industry Section

- Supervision of insurance undertakings in an insurance group
COM(95) 406 final - 95/0245 COD
Deadline: February
- Sulphur content of certain oil-based liquid fuels
COM(95) 487 final
Deadline: February

Social Questions Section

- Right to vote and to stand for election in municipal elections for citizens living in a Member State other than that of their nationality
COM(95) 499 final
Deadline: November
- Export of cultural assets
COM(95) 479 final
Deadline: to be decided

Agriculture Section

- Common organization of the markets in the fruit and vegetable sector
COM(95) 434 final - 95/0247 - 95/0248 CNS
Deadline: December
- Protection measures against zoonoses
COM(95) 491 final
Deadline: December
- Support systems for producers of certain arable crops (to be confirmed)
COM(95) 497 final
Deadline: to be decided

OWN-INITIATIVE WORK

Regional Development Section

- The role of the European Union in urban matters
Deadline: February
- The new regional programmes under Objectives 1 and 2 of the Community's structural policies
COM(95) 111 final
Deadline: February/March

Agriculture Section

- The problems of agriculture in peripheral and island regions of the European Union
Deadline: May
- Stocktaking of the first three years of the application of CAP reform
Deadline: July

External Relations Section

- Relations between the European Union and the United States
Deadline: March

III. PRESENCE AND INFLUENCE OF THE ECONOMIC AND SOCIAL COMMITTEE

The President's activities

On 9 October, the President, Mr Ferrer attended a dinner in honour of the King of Sweden, who was paying a state visit to Belgium, at the Royal Museum of Art and History in Brussels.

On 10 October, Mr Ferrer gave the closing speech at the Seville conference on The Citizens' Europe.

On 12 October, he had a meeting with Mr Lautenberg, the Swiss Ambassador to the EU, and with Mr Sioud, the Tunisian Ambassador to the EU.

On 12 October, Mr Ferrer and Mr Simon-Pierre Nothomb, Secretary-General of the ESC, hosted a luncheon for Lord McGregor, President of Reuters press agency, and Mr Mutti, President of the Adelphi Foundation.

On 19 October, Mr Ferrer gave a speech on the ESC's role and future objectives at the Brussels office of the Catalonian employers' association.

Other activities

On 28 and 29 September, the Study Group of the Section for Economic, Financial and Monetary Questions, which is preparing a report on the Irish economy in the context of convergence towards economic and monetary union (Rapporteur: Mr Ettore Masucci) visited Ireland to meet persons in positions of economic and social responsibility. This meeting, chaired by Mr Göke Frerichs and held at St. Patrick's College, Maynooth University, was attended by the Minister of State for Finance, Mr Hugh Coveney, the Deputy Director-General of the European Commission, Mr Heinrich Matthes, senior officials, representatives of employers' and trades union associations and Irish economists (Prof. John D. Fitzgerald).

On 4 October, Mr Eneko Landaburu, Director-General of the European Commission, attended the meeting of the Section for Regional Development.

On 4 and 5 October, Mr Helmut Giesecke attended the third Eurochambers congress on *The Information Society - the role of Chambers of Industry and Commerce* held in Amsterdam.

On 5 and 6 October, Mr Jens-Peter Petersen represented the Committee at the second European automobile industry forum in Stuttgart.

On 6 October, Mr Liam Connellan, President of the Section for Industry, attended the annual meeting of ORGALIME (the liaison group for the European engineering industry) in Dublin.

From 8 to 10 October, the ACP/EU Follow-up Committee, composed of 12 ESC members and 12 representatives of ACP socio-occupational organizations, made a fact-finding visit to Trinidad and Tobago. The Committee primarily collected information on the specific economic and social conditions of the Caribbean region, employment promotion and the outlook for decentralized development cooperation between the Caribbean and European partners (R/CES 1032/95 rev. item 9f).

On 9 and 10 October, the ESC, in conjunction with the Confederation of Andalusian Employers (CF) organized a conference on The Citizens' Europe: *Andalusia in dialogue with Europe*.

