EUROPEAN ECONOMIC
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COMMUNITY

DOSSIER : EXT/23
INVESTMENT
GUARANTEES

ECONOMIC AND SOCIAL COMMITTEE

Brussels, 3 December 1980

C O R R I G E N D U M
to the
R E P O R T
of the Section for External Relations
on the
Protection of Investment in the
Developing Countries

Rapporteur : Mr BREITENSTEIN

CES 495/80 fin Corr. F/AG he

Add the following passages to the end of the Report :

10. During the discussions, some members made it clear that they did not approve of the general thrust of the Opinion. In setting Community and national cooperation policy objectives, and in taking concrete action in the field of development (particularly by investing), too little attention had in their view been paid to labour matters.

The majority of Section members who voted in favour of the Opinion, however, pointed out that in July 1980 the Committee had adopted an Opinion on Development Cooperation Policy and the Economic and Social Consequences of Applying Certain International Standards Governing Working Conditions (*) and so felt that it was not necessary to repeat the content of this Opinion in the present Opinion on the protection of investments. By contrast, those in the opposite camp wanted the present Opinion to draw attention anew to the validity of the Committee's earlier conclusions as set out :

- in the Committee's Opinion of 28 February 1974 on the Proposal for a Council Regulation Establishing a Community Guarantee System for Private Investments in Non-Member Countries (**)

"- no discrimination against employees on grounds of origin, nationality, race, religion or political affiliation,

- respect for employees' freedom of association,

(*) OJ No. C 230 of 8 September 1980
(**) CES 217/74

- right of trade unions to negotiate and to conclude collective agreements,
- safety at work (technical and social facilities),
- adherence to the standards laid down in the ILO conventions on the rights and protection of labour,
- right of representatives of workers in undertakings making investments to obtain information, and be consulted according to the procedures in effect in each Member State, on proposed investment in a third country."

- in the Committee's Study of 25 May 1977 on the Community's policy regarding relations between the industrialized and developing countries (*) :

"Private investment by European firms will only take place if two essential conditions are fulfilled - first, if there is a reasonable expectation of profitability to the firm; and, second, if there is a reasonable prospect of secure and durable operations. Conversely, private investment will only be of value to developing countries if : (a) it contributes to useful and appropriate technological transfer; (b) it creates local employment in a high proportion to capital invested; (c) it provides technical and managerial in-service training; (d) it fits in with the general development objectives of the country concerned, and is likely to be fully integrated into the national economy."

- in the Committee's Opinion of 3 July 1980 on the Development Cooperation Policy and the Economic and Social Consequences of Applying Certain International Standards Governing Working Conditions (**)

"With specific reference to EEC firms investing in developing countries there is a need for :

(*) Doc. CES 565/77
(**) OJ C 230 of 8 September 1980

. compliance with the ILO tripartite declaration of principle on multinationals and social policy (*), particularly the sections on the promotion of full employment and job security, consultation with workers' organizations and participation in vocational guidance and training programme;

. attention to be paid to working conditions, health and safety, in connection with investments in buildings, materials and plant so as to avoid pollution or degradation of the environment or living conditions;

. investment projects to be subjected to a thorough examination and social conditions to be laid down for foreign investments (where public funds are involved) so as to avoid any aid or subsidy being given in connection with industrial and technological cooperation to EEC firms which do not undertake to respect the social conditions essential to sound development."

Other members drew attention to the extremely weak negotiating power of the developing countries because of the backwardness of their educational systems, widespread poverty, weak structures and the aftermath of recent colonization. In their view investments by private firms from industrialized countries created situations of sharp conflict because of the various interests at stake. These same members contended that it was not right that firms should qualify for public subventions without having to submit their investment plans to the national and/or EEC authorities responsible for granting the aid. This was particularly necessary for two reasons : first the authority

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(*) Declaration adopted by the ILO Governing Body at its 204th Session on 5 November 1977.

granting the subvention was entitled to participate in some way in the proceeds. Experience in Italy should serve as a warning, where the high profits went entirely into private hands and later losses - albeit caused by political events - were shouldered completely by the state. Secondly, there was a lot to be said for the existence of a functional link between the following two (hypothetical) stages of investment : the first in which the firm abused its economic strength to obtain high profits and the second in which the host country legitimately struck back (nationalization, blocked transfers of funds). In this context, it was obvious that the tendency to conflict of the three parties to the investment - private firm, industrialized country of origin of the firm, host developing country - could only be curbed if the firm respected both the interests of the industrialized country (regular supplies of raw materials at prices competing with rival suppliers) and the interests of the host developing country (contribution towards the development of GNP and towards the achievement of that country's economic policy goals).

These same members considered that the more investments respected the "code of conduct" built up by various international organizations the sounder the guarantee against political risks. A further guarantee was afforded through the "multilateralism" of investment initiatives (capital input from various sources : local, Community (private and public), OPEC countries, socialist countries, etc.).