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282nd Plenary Session of 18 and 19 December 1990

The 282nd Plenary Session of the Economic and Social Committee was held in Brussels on 18 and 19 December 1990. Mr François Staedelin, Chairman, presided.

The Committee adopted the following Opinions:

1. ORGANIZATION OF WORKING TIME

Proposal for a Council Directive concerning certain aspects of the organization of working time
[COM(90) 317 final — SYN 295]

Gist of the Commission proposal

Based on Article 118a of the Treaty, in response to the European Council pronouncements at Hanover, Rhodes and Madrid, and pursuant to the Social Charter and accompanying action programme, the Commission proposes a groundwork of basic provisions on certain aspects of the organization of working time connected with workers' health and safety at work, which can be summarized as follows:

- (i) minimum daily rest period of 11 hours in 24 hours;
- (ii) every seven-day period at least one rest day on average (with a reference period of 14 days);
- (iii) annual paid holiday related to national practices;
- (iv) night-workers should not work more than eight hours per 24 hours;
- (v) no overtime by night-workers;
- (vi) in establishing breaks for rotating shift-workers and for night-workers, account shall be taken of the more demanding nature;
- (vii) special arrangements for health assessment and transfer to day work for night-workers;

(viii) derogations are possible (oil rigs, transport, distribution, seasonal jobs).

The Member States shall comply with this Directive by 31 December 1992, bringing into force the laws, regulations or administrative provisions necessary or by ensuring that the two sides of industry establish the necessary provisions through agreement.

Gist of the Committee Opinion ¹

According to the Committee, adoption of preventive measures and basic minimum standards of protection throughout the Community are both socially necessary and economically viable.

Regrettably, the Commission has not taken sufficient account either of the Council of Europe's Social Charter or of the ILO standards regarding the demarcation of the working week in drafting the Directive. The Commission also fails to set a reference figure for regular weekly working hours and paid annual leave.

The Committee calls for an EC-wide ban on night-working by young people.

In its specific comments, the Committee:

- (a) approves the legal basis;
- (b) argues that 'night-work' should be defined as 'any work carried out between 10 p.m. and 6 a.m.', adding that where possible the number of hours in question should be determined by collective agreements;
- (c) reiterates its view that basic Community social rights should include the 'right to a weekly rest period';
- (d) recalls the EC Council recommendation of 1974 for a minimum EC standard of four weeks paid leave per year;
- (e) considers that the sweeping overtime provision needs to be reviewed;
- (f) calls for the introduction of EC provisions incorporating the ILO provision that 'the normal hours of work of night-workers should generally be less on average than... those of workers performing the same work to the same requirements by day...';

¹ CES 1495/90.

- (g) stresses that, under statutory provisions or collective agreements, employees should be entitled to free medical examinations in respect of industrial illness;
- (h) repeats that the Directive should provide for freely negotiated collective agreements.

This Opinion, adopted by 91 votes for, 42 against with 20 abstentions, was drawn up in the light of the paper produced by the Section for Social, Family, Educational and Cultural Affairs chaired by Mr Vasco Cal (Portugal — Workers). The rapporteur was Mrs Engelen-Kefer (Germany — Workers).

2. ACTION PROGRAMME FOR THE EUROPEAN YEAR OF SAFETY, HYGIENE AND HEALTH PROTECTION AT WORK (1992)

Proposal for a Council Decision on an action programme for the European Year of Safety, Hygiene and Health Protection at Work (1992)
[COM(90) 450 final/2]

Gist of the Commission proposal

The Commission of the European Communities has adopted the main guidelines for the organization of the European Year of Safety, Hygiene and Health Protection at Work suggested by the Council in its resolution of 21 December 1987.

This topic is in line with the spirit of the Community Charter of the Fundamental Social Rights of Workers.

The Commission's information campaign is intended to heighten the awareness of industry and of the general public in two ways:

- (i) by publicizing the work done by Community institutions in this field, especially the relevant legislation; and
- (ii) by highlighting the action taken by employers, employees and the public authorities to ensure high standards of health and safety at the workplace.

The fact that improving safety, hygiene and health protection makes a positive contribution to business efficiency, to product quality and to maintaining the competitive edge of European industry will be stressed.

The Commission intends to organize this European Year with the active participation of all those who have a part to play in this area, i.e. national governments and parliaments, local and regional organizations, employers' organizations and trade unions, large and small businesses, voluntary organizations and the general public.

Four topics have been selected which concern health and safety at all workplaces in the Community:

- (a) clean air;
- (b) safety;
- (c) well-being;
- (d) the suppression of noise and vibrations.

Through the national liaison offices which are to be set up in each Member State in 1991, the Commission will soon be inviting official and voluntary bodies, the media, industry and individuals to come forward with projects likely to be suitable for the European Year, which will entitle them either to receive financial support or to be authorized to use the campaign logo. The Commission's Offices in the Member States will also be involved.

Gist of the Committee Opinion ¹

The Committee approves the Commission proposal.

This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Social, Family, Educational and Cultural Affairs chaired by Mr Vasco Cal (Portugal — Workers). The rapporteur was Ms Maddocks (United Kingdom — Workers).

3. ADVERTISING OF MEDICINAL PRODUCTS

Proposal for a Council Directive on advertising of medicinal products for human use
[COM(90) 212 final — SYN 273]

Gist of the Commission proposal

The proposal is based on Article 100a of the Treaty. Its aim is to establish a common framework for pharmaceutical advertising and to lay down certain requirements to which pharmaceutical

¹ CES 1494/90.

advertising must conform, where it is authorized. All pharmaceutical advertising within the Community will have to meet certain essential criteria, irrespective of its target audience.

With the exception of certain common principles and general points (Article 2), the proposal provides for separate systems for advertising to the general public and advertising to health professionals.

Under a principle common to all Member States, advertising to the general public can only be permitted where it concerns products for self-medication. By reference to the recent Commission proposal on the legal status for the supply of medicinal products for human use, advertising to the public of medicinal products obtainable only by prescription should therefore be prohibited (Article 3).

In cases where advertising to the general public is permitted, it must comply with certain positive (Article 4) and negative (Article 5) conditions.

Advertising addressed to health professionals must include more extensive information than that addressed to the general public (Article 6). These principles also apply to the documentation provided with regard to promotion of medicinal products (Article 7).

Measures concerning the monitoring of pharmaceutical advertising are to a large extent drawn from the system of Directive 84/450/EEC concerning misleading advertising. Thus the role of self-regulatory bodies is expressly recognized (Article 11). To guarantee the principles laid down by the Directive, pharmaceutical companies are required to establish an in-company scientific service which would act as a point of contact for all scientific information concerning the company's medicinal products (Article 12).

Gist of the Committee Opinion ¹

Prescription drugs must not be advertised in public — this is the message of the Committee Opinion.

The Economic and Social Committee has in the last two years issued Opinions on a number of the measures contained in the Commission's 1985 White Paper: wholesale distribution, legal status and labelling of medicinal products. The proposed Directive on

¹ CES 1499/90.

drug advertising represents a further step towards alignment of the market in medicinal products.

The Committee welcomes the Directive's ban on the public advertising of prescription drugs. At the same time, however, it points out that differing interpretations of the criteria for supplying drugs would entail differing implications for this ban.

The Committee calls for a clarification of the distinction between the general public and doctors and pharmacists as target groups. Sophisticated sales promotion techniques themselves create a need for a precise distinction between advertising and information.

Although advertising can be informative, it can in no way replace professional information or that contained in package leaflets. The Committee expresses concern at the Commission proposal to allow manufacturers to decide whether the label should mention special precautions or merely invite patients to read the package leaflet. Lack of space on the label should be no excuse for failing to provide vital information.

This Opinion, adopted unanimously with one abstention, was drawn up in the light of the paper produced by the Section for Protection of the Environment, Public Health and Consumer Affairs, chaired by Mr Ceballos Herrero (Spain — Various Interests). The rapporteur was Mr Colombo (Italy — Employers).

4. STANDARDIZATION OF ENVIRONMENT REPORTS

Proposal for a Council Directive harmonizing and rationalizing reports on the implementation of certain directives relating to the environment
[COM(90) 287 final]

Gist of the Commission proposal

The current system of reporting by Member States to the Commission on the implementation of Community environmental directives has proved unsatisfactory.

The present proposal aims to remedy this by establishing a new more systematic reporting system.

This will also necessitate the amendment of existing directives which impose a legal obligation on Member States to submit reports under the old system.

Gist of the Committee Opinion ¹

The Committee agrees with the Commission proposal but points out that:

- (i) the new reporting system should be as simple as possible to avoid the imposition of unnecessary work on national administrations;
- (ii) the relationship between the new system and the question of free access to environmental information must be more clearly defined;
- (iii) if the new system proves effective, it might be adopted for use in other fields.

This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Protection of the Environment, Public Health and Consumer Affairs, chaired by Mr Ceballo Herrero (Spain — Various Interests). The rapporteur was Mr van Dam (Netherlands — Employers).

5. FOODSTUFFS — LOT IDENTIFICATION

Proposal for a Council Directive amending Directive 89/396/EEC on indications or marks identifying the lot to which a foodstuff belongs
[COM(90) 440 final — SYN 304]

This is a proposal to amend Directive 89/396/EEC on lot identification of foodstuffs to allow an exemption in respect of individual portions of ice-cream which are consumed immediately on purchase.

Gist of the Committee Opinion ²

The Committee considers individual lot marking to be very important and would prefer no exemptions. However, in view of the severe cost and technical problems involved, it accepts the Commission proposal but requests that the exemption be limited to a few years.

This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Protection of the Environment,

¹ CES 1491/90.

² CES 1488/90.

Public Health and Consumer Affairs, chaired by Mr Ceballo Herrero (Spain — Various Interests). The rapporteur was Mr Gardner (United Kingdom — Employers); the co-rapporteurs were Mr Dunkel (Luxembourg — Workers) and Mr Jaschick (Germany — Various Interests).

6. COMPETITION POLICY — 19th REPORT

Gist of the Commission document

The year 1989 saw several fundamental developments in Community competition policy particularly in the fields of merger control, greater competition in certain service activities and the strengthening of the Commission's monitoring of State aids.

Merger control

The new Council Regulation on merger control provides the Community with a specific instrument for merger control, filling a gap in existing Community competition law. The basic concept underlying the Regulation is to establish a clear distinction between mergers having a Community dimension, for which the Commission will be responsible and those whose main impact is at national level, which will come under the responsibility of the national authorities.

The current thresholds for intervention by the Commission have been set at a fairly high level for the initial phase of implementation of the Regulation. However, the thresholds are to be reviewed, on the basis of a qualified majority, within four years and the Commission intends to propose that the thresholds be revised downwards.

There are only two limited derogations to the principle of exclusive Community responsibility within the field of application of the Regulation. Firstly, the Regulation provides for possible referral to the national authorities of a Member State where a problem involving a dominant position arises in a 'distinct market'. Secondly, the Regulation does not affect the right which the Treaty already gives Member States to ensure the protection of 'legitimate interests' other than those protected by the Regulation.

Service activities

1989 marked another turning point in Community competition policy, in that very substantial progress was made in opening up certain service activities to greater competition.

In the transport sector, the Commission put forward proposals for a second package of measures following on from those introduced in 1987 with the aim of pursuing the liberalization process in this sector. The judgment given by the Court of Justice in the *Ahmed Saeed* case confirmed the *Nouvelles Frontières* judgment with regard to Article 85 of the EEC Treaty and clarified the conditions governing direct applicability of Article 86 by national courts.

In the telecommunications sector, the year was marked by the Commission's adoption of a new Directive, based on Article 90 of the EEC Treaty on competition in the markets for telecommunications services, and with regard to audiovisual services, the Commission's main concern was to maintain the openness of markets and to dismantle barriers to entry.

State aids

EC Member States are continuing to subsidize their industries to an unacceptable extent, with little evidence that aid volumes are falling. The Commission's second inventory of EC State aids, published independently of the Report, sets out the new and most ambitious task yet of scrutinizing countries' general economic programmes.

In 1987 and 1988, EC countries paid subsidies to manufacturing industry worth 4% of total output — equivalent to more than half pre-tax profit in many sectors. Although the percentage has fallen from 4.8% since the first survey (covering 1981-86) nearly all of the fall represents lower aid paid in shipbuilding and steel sectors, which were still in crisis in the early 1980s. Excluding these sectors, the percentage fell marginally from 4.0% to 3.8%.

The time has come for the Commission to use more systematically the provisions of Article 93(1) in order to review the legitimacy of existing aids which, by their nature and volume, may threaten the proper functioning of intra-Community trade. Some such aid, even if tolerated or accepted in the past, must be viewed in the light of increased integration of the Community market, and its compatibility with the common market must be reexamined accordingly, as in the case of aid to certain industries, sometimes granted to national champions under the guise of general investment aid or capital injections, or with aid for extra-Community exports whose effects may be felt within the common market. The Commission's well-established view is that it is first and foremost for the market, and not subsidies, to ensure that the Community has a rational and competitive industrial structure that is both open to the outside world and forward looking.

Gist of the Committee Opinion ¹

The Committee considers that Community and national rules on competition are not separated by rigid, uncrossable boundaries; they are flexible elements of a competition policy which, by means of the principle of subsidiarity, can and must retain its original spirit, pursue the objectives of the Treaty, and be applied consistently throughout the Community.

The Commission has always paid considerable attention to the distributive trades, as the many block-exemption regulations show. However, the Commission seems unhappy with the situation and appears to be reviewing it, although the reasons for the Commission's dissatisfaction and the possible alternatives are not yet clear.

The criteria and parameters governing merger controls must now fit into a broad geographical and temporal perspective. Any definition of 'relevant market' will have to take account of not only current but more importantly future potential competition, and not just in the Community but more especially at international level.

In the service sector, as in the case of mergers, the application of Community rules is not enough. Action must be taken to deal with national regulations which impede effective competition in certain sectors.

In the Committee's view, prices must as a rule be determined by the market, i.e. by the free play of economic forces. Competition policy must ensure that this is achieved with respect for the roles of all the socio-economic partners, for consumer interests and for legislation protecting the environment (to cite the most topical and significant example).

Accordingly, neither companies nor national authorities must play an undue part in price formation or price levels. Their task is to administer the few remaining exceptions, which in any case are governed by national control/monitoring systems.

As full market integration has not yet been achieved, national laws still have a role to play in controls designed to avoid abuses and, in certain cases, to ensure a degree of price stability.

¹ CES 1493/90.

The Committee Opinion also considers other aspects of competition policy. Amongst other points, it stresses the need:

- (i) to pay special attention to the problem of dumping;
- (ii) for close cooperation between the Commission and the national governments as regards the application of competition rules;
- (iii) to bolster the aggregate resources of DG IV;
- (i) to strengthen international relations in the field of competition policy.

This Opinion, adopted unanimously with three abstentions, was drawn up in the light of the paper produced by the Section for Industry, Commerce, Crafts and Services, chaired by Mrs Robinson (United Kingdom — Employers). The rapporteur was Mr Bagliano (Italy — Employers).

7. CUSTOMS CODE

Proposal for a Council Regulation (EEC) establishing a Community Customs Code, and the

Proposal for a Council Regulation (EEC) determining the cases and the special conditions under which the temporary importation arrangements may be used with total relief from import duties

[COM(90) 71 final — SYN 253]

Gist of the Commission document

In submitting this proposal, the Commission is launching the most far-reaching project of legislative consolidation ever undertaken in a field subject to Community law. It is incorporating customs legislation in a single body of rules which serves both as a framework for all customs activities and as a basis for the relationships between citizens and traders and the competent authorities.

Inasmuch as it constitutes Customs Union legislation of general application, the Code is applicable only to trade between the Community and third countries. The movement of Community goods within the Community therefore falls outside its scope.

The objectives pursued in consolidating customs legislation are, essentially, of a practical nature:

- (i) one coherent text to replace a multiplicity of different instruments;
- (ii) transparency of the subject matter;
- (iii) consolidation of existing legislation.

It would appear advisable to attach to the proposal for a Community Customs Code the proposal for a Regulation specifying the cases and the special conditions under which the temporary importation procedure may be used with total relief from import duties. The status of the provisions in question is somewhat special, being somewhere between tariff provisions and customs legislation, and this justifies their being contained in a text separate from the Code.

The Regulation establishing the Community Customs Code obviously rescinds several regulations and directives.

Gist of the Committee Opinion ¹

The Committee notes that this proposal meets its request to the Commission for the introduction of uniform customs legislation in the Community.

With regard to the provisions on the Customs Code Committee (Article 253 and 255) the Committee also notes that the provisions in question no longer give Member States an active say in the adoption of implementing provisions but merely concede the right of consultation.

This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Industry, Commerce, Crafts and Services, chaired by Mrs Robinson (United Kingdom — Employers). The rapporteur was Mr Petersen (Germany — Employers).

¹ CES 1489/90.

8. ELIMINATION OF BAGGAGE CHECKS

Proposal for a Council Regulation (EEC) concerning the elimination of controls and formalities applicable to the cabin and checked baggage of passengers taking an intra-Community flight and the baggage of passengers making an intra-Community sea crossing [COM(90) 370 final — SYN 289]

Gist of the Commission document

The Commission proposes that, from 1 January 1993, without prejudice to the safety checks applicable in air and sea transport, no controls or formalities should be carried out in respect of the cabin and checked baggage of passengers taking an intra-Community flight or the baggage of passengers making an intra-Community sea crossing.

To ensure that passenger traffic in airports is not held up, and to avoid the administrative complications which would be caused by applying different controls according to the destination of passengers travelling on a means of transport visiting extra-Community ports or airports, the Regulation would not apply to:

- (i) the cabin and checked baggage of passengers taking a flight in an aircraft that began its journey at a non-Community airport and which pursues it between two Community airports;
- (ii) the cabin and checked baggage of passengers taking a flight in an aircraft which, after a leg between two Community airports, continues its journey to a non-Community port;
- (iii) the baggage of passengers using a maritime service effected in one vessel and comprising successive legs departing from, terminating in or calling at a non-Community airport;
- (iv) the baggage of passengers on board pleasure-craft.

Gist of the Committee Opinion ¹

This proposal is particularly welcomed by the Committee in that it will do more than anything else to alert Community citizens to the advantages of a large frontier-free market.

¹ CES 1490/90.

Whilst the Committee Opinion is broadly favourable, it makes a number of criticisms of specific aspects of the Commission proposal, such as the role of national representatives on the Community Transit Committee.

In the context of contacts and efforts aimed at the creation of a large European economic area, the Community should even negotiate similar arrangements with the EFTA countries thereby sparing the majority of Europe's citizens the pettiness (which in some cases is quite arbitrary) frequently experienced when baggage is checked. Extension of the elimination of controls to these countries would be all the more logical in that relatively short journeys in Europe generally make it necessary to take flights or crossings which start, terminate or stopover at non-Community airports or ports.

This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Industry, Commerce, Crafts and Services, chaired by Mrs Robinson (United Kingdom — Employers). The rapporteur was Mr Giacomelli (Luxembourg — Employers).

9. SINGLE ADMINISTRATIVE DOCUMENT

**Proposal for a Council Regulation (EEC) concerning
the single administrative document
[COM(90) 363 final — SYN 290]**

Gist of the Commission document

The single administrative document was introduced by Council Regulation (EEC) No 678/85 for trade in Community goods within the Community and by Council Regulation (EEC) No 1900/85 for formalities related to import, export and trade between Member States in non-Community goods.

From 31 December 1992 goods covered by the internal market must be able to move from one point in the Community to another without customs formalities or controls of any kind, thereby ending the use of the single administrative document in this type of trade.

Accordingly the legislation on the single administrative document's field of application must be substantially adjusted.

Gist of the Committee Opinion ¹

The Committee welcomes the principle underlying the new proposal since the recasting of the three existing Regulations on the single administrative document reflects the Commission's intention of adjusting to the new situation which will arise after 31 December 1992, i.e. the deadline laid down in Article 8a of the Treaty, as amended by the Single Act, for the achievement of the single market, with all that this implies in terms of the abolition of intra-Community frontiers and the free movement of goods between the Member States.

When the single market comes into existence, border controls and formalities will be abolished within the European Community and goods will be traded under the same conditions as in any single Member State.

Whilst approving the Commission proposal, the Committee has reservations about the following provisions:

- (i) the cancellation or correction of the declaration made by the declarant;
- (ii) the application of procedures, whether or not based on the use of computers;
- (iii) the powers and operation of the Single Administrative Document Committee.

The Committee also draws attention to the need to draw up a programme for the training and retraining of customs officials and ancillary staff.

This Opinion, adopted unanimously with one abstention, was drawn up in the light of the paper produced by the Section for Industry, Commerce, Crafts and Services, chaired by Mrs Robinson (United Kingdom — Employers). The rapporteur was Mr Giacomelli (Luxembourg — Employers).

¹ CES1487/90.

10. PROCUREMENT PROCEDURES IN THE WATER, ENERGY, TRANSPORT AND TELECOMMUNICATIONS SECTORS

Proposal for a Council Directive coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors
[COM(90) 297 final — SYN 292]

Gist of the Commission document

The aim of the draft Directive is to introduce the same adequate remedies and control procedures in the hitherto 'excluded sectors' as exist in the general field of public procurement. Only such guarantees will ensure that the Community rules on contract procedures are in practice respected and that the Community's fundamental objectives in this area of the internal market programme are realized. This new proposal thus fills an important gap and is the necessary complement to the proposals already made.

Gist of the Committee Opinion ¹

The Committee welcomes the proposed implementing Directive, subject to a number of comments.

The Committee welcomes Article 1 which strikes a sound balance between differing traditional national practices and the need for some degree of Community-wide conformity. Another significant advance is the specific requirement that the fundamental guarantees offered by the different national systems must be equivalent in effect, though the legal nature of the review bodies may differ.

The Committee welcomes Article 2, which distinguishes between the possibilities for: (a) a speedy hearing of urgent cases in the shape of interim measures to halt alleged infringements; and (b) setting aside unlawful decisions.

However, the Committee believes that the Commission proposal is marred by the provision of an alternative procedure ('attestation' procedure) whereby contracting entities having obtained attestation

¹ CES 1492/90.

are exempted from the provisions on suspension of contract award procedures or setting aside of unlawful decisions, also in the case of unlawful specifications.

While the Committee fully understands that some Member States may have legal and political difficulties in implementing the basic arrangements proposed, it must nevertheless insist that the Directive should not be a dead letter from the very start under the guise of 'flexibility'.

If the implementing Directive provides scope for evading the basic enforcement rules, the Community has little or no chance of fostering openness and free competition in a sector where preferential treatment of national entities still remains the norm.

The Committee is unable to accept the equal efficiency and validity of *ex post* damages awarded on a basis of attestation and suspension of illegal procedures before they have led to the conclusion of invalid contracts.

In the Committee's view, it is also unacceptable that the judicial procedure should differ depending on whether the entity responsible in the sectors concerned is 'public' or 'private'.

This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Industry, Commerce, Crafts and Services, chaired by Mrs Robinson (United Kingdom — Employers). The rapporteur was Mr Kaaris (Denmark — Employers).

11. SHIPS REGISTRATION

Proposal for a Council Regulation (EEC) on the transfer of ships from one register to another within the Community

[COM(90) 219 final]

Gist of the Commission proposal

Transferring a ship to the flag of another Member State is often a costly operation for shipowners.

Member States do not normally recognize certificates issued by another country. If a ship is to be transferred from one register to another it has to undergo an inspection to ensure that it complies with the safety regulations of the receiving country.

In practice, the shipowner may be required to replace or adapt equipment or to submit it for additional type-approval tests under

the rules of the new country of registration, thus incurring additional expense. It is obvious that such practices are not in accordance with the aims of the single market.

Starting from the principle of compliance with the international conventions on safety and the prevention of marine pollution, the Commission proposes mutual recognition of the safety level attested to by international certificates when a vessel flying the flag of a Member State of the Community is re-registered in another Member State. Where the vessel concerned complies with international standards, the Member States should undertake not to impose their national technical regulations which sometimes differ from those laid down in international conventions.

The draft Regulation does not cover passenger vessels.

Gist of the Committee Opinion ¹

The Committee endorses the Commission proposal, since it clearly facilitates the extension of the single market to the shipping industry. It also addresses questions relating to compatibility with safety and environment-orientated action.

This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Transport and Communications, chaired by Mr Eulen (Germany — Workers). The rapporteur was Mr Velasco Mancebo (Spain — Workers).

¹ CES 1496/90.

12. ACCESS TO THE MARKET AND QUOTAS/ROAD HAULAGE

Proposal for a Council Regulation (EEC) amending Regulation (EEC) No 3164/76 on access to the market in the international carriage of goods by road and the proposal for a Council Regulation (EEC) amending Regulation (EEC) No 4059/89 laying down the conditions under which non-resident carriers may operate national road haulage services within a Member State [COM(90) 579 final]

Gist of the Commission proposals

The enlargement of the Community through the reunification of Germany makes it necessary to increase the Community quota for 1991 and 1992 and allocate the additional Community authorizations amongst the Member States. The cabotage quota will similarly have to be increased and the additional authorizations allocated amongst the Member States.

The Commission proposes that the increased authorizations for 1991 and 1992 under the Community quota be allocated as follows:

	<i>1991</i>	<i>1992</i>
Belgium	14	19
Denmark	14	20
Germany	330	462
Greece	6	8
Spain	14	20
France	19	27
Ireland	7	9
Italy	19	27
Luxembourg	7	10
Netherlands	20	28
Portugal	8	11
UK	12	17

It further proposes that the additional cabotage authorizations be allocated as follows:

Belgium	21
Denmark	21
Germany	85
Greece	11
Spain	22

France	28
Ireland	11
Italy	29
Luxembourg	11
Netherlands	29
Portugal	12
UK	18

These provisions should come into force on 1 January 1991. They will thus have to be adopted by the Council without delay.

Gist of the Committee Opinion ¹

The Committee has welcomed the Commission's intention to pay close attention to the development of East-West links so that the merging of European economies is not impeded and the associated exchange of goods not hampered by transport bottlenecks.

In view of this eastward expansion of the EC, it has if anything become more urgent to take political decisions on alignment so as to avoid distortions of competition.

The Committee welcomes the fact that the Commission is taking immediate account of the current expansion of the market in the carriage of goods and is proposing to allocate additional quotas amongst the Member States.

This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the rapporteur-general Mr Eulen (Germany — Workers).

13. PLANT VARIETY RIGHTS

Proposal for a Council Regulation (EEC) on Community plant variety rights [COM(90) 347 final]

Gist of the Commission proposal

The proposed Regulation is one of the measures provided for in the Commission's 1985 White Paper on completion of the internal market. Its subject is the establishment at Community level of a special form of industrial property rights for the development of new plant varieties.

¹ CES 1497/90.

The proposed system is based on the UPOV system (*Union pour la protection des obtentions végétales*) which has already been implemented by the majority of the Member States. The new proposal seeks to bring the current situation, which is characterized by various national plant variety protection laws, into line with the circumstances of the single market, and to strengthen the protection available to plant breeders in the light of the development of new breeding methods such as biotechnology.

Under the new system, breeders would be able to acquire, upon a single application and through a single decision, direct and uniform protection throughout the Community.

The proposed Regulation is subdivided into four main sections: substantive law, operational law, the impact on other laws, and financial and institutional aspects.

The substantive law lays down the conditions for the grant of Community plant variety protection rights, i.e. distinctness, uniformity, stability and novelty of the variety concerned, as well as personal entitlement. It defines the uniform effects of the right granted and establishes both the internationally recognized principle of 'breeders' exemption' for new varieties developed from protected varieties, and the accepted practice of 'agricultural exemption' for farm-saved seed. It finally lays down rules on the use of variety denominations, fixes the period of protection and other criteria for termination, determines the status of the right granted as an object of property of the holder, and provides for a system of compulsory licensing.

The operational law provides for the creation of a Community Plant Variety Office whose status, duties, structure and management are similar to what is found in other areas of industrial property rights.

With regard to the impact on other laws, the Regulation lays down certain provisions defining the relationship to national plant variety rights and to patents. It identifies possible civil law claims derived from the proposed system, in particular in cases of infringements. It also refers to the relevant international and national rules on jurisdiction and procedure.

The financial system is based initially on mixed financing through fees and subsidies from the general budget of the Community, the aim being to move on later towards the self-financing of the Office's costs.

Finally, the proposal provides for the adoption of secondary Community provisions in accordance with established procedures.

Gist of the Committee Opinion ¹

The Committee welcomes the Commission proposal.

It considers that these rules, which ensure legal protection, upon a single application and through a single decision, for the rights of plant-breeders in the Community, should encourage them to apply for protection of their rights in the Community area.

The Committee notes with satisfaction that the Commission intends to publish a scale of charges:

- (i) which should encourage many plant-breeders to apply for rights in the Community area;
- (ii) which takes account of the financial circumstances of small and medium-sized plant-breeding enterprises.

This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Agriculture and Fisheries, chaired by Mr Laur (France — Various Interests). The rapporteur was Mr Schnieders (Germany — Employers).

14. VETERINARY CHECKS ON PRODUCTS FROM THIRD COUNTRIES

Proposal for a Council Regulation (EEC) laying down the principles governing the organization of veterinary checks on products entering the Community from third countries
[COM(90) 385 final]

Gist of the Commission proposal

The aim of the proposal is to organize veterinary checks on products entering the Community from third countries. These provisions are vital for the completion of the internal market, for veterinary checks at internal frontiers are to be abolished shortly. A documentary check, an identity check and a physical check will have to be carried out on third-country products at an inspection post located in the immediate vicinity of the point of entry.

¹ CES 1501/90.

Gist of the Committee Opinion ¹

The Committee endorses the Commission proposal, subject to a number of observations. It expresses concern with regard to the proposed reduction in the number of inspection posts and possible additional costs.

It also wonders whether the proposed funding of the new system will be adequate.

In addition, it recommends that a balance be sought between the need for health protection and requirements arising from international agreements, especially within GATT.

Lastly, the Committee makes certain specific observations relating, in particular, to imports from Central and Eastern Europe.

This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Agriculture and Fisheries, chaired by Mr Laur (France — Various Interests). The rapporteur was Mr Proumens (Belgium — Employers).

15. BOVINE BRUCELLOSIS AND ENZOOTIC BOVINE LEUKOSIS

Proposal for a Council Directive amending Directive 64/432/EEC as regards the diagnosis of bovine brucellosis and enzootic bovine leukosis
[COM(90) 492 final]

Gist of the Commission proposal

The proposal provides for the introduction of a new method of diagnosis, called Elisa, to be added to those already used for the detection of bovine brucellosis and enzootic bovine leukosis.

Gist of the Committee Opinion ²

The Committee approves the Commission proposal.

This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Agriculture and Fisheries, chaired by Mr Laur (France — Various Interests). The rapporteur was Mr Proumens (Belgium — Employers).

¹ CES 1498/90.

² CES 1500/90.

The Economic and Social Committee's external contacts and impact

Meetings attended by the Chairman and the Secretary-General of the ESC

- 5 December: Attendance at fourth preliminary Interinstitutional Conference (Brussels)
- 5 December: Meeting with Ms Vasso Papandreou, Member of the Commission
- 6 December: Meeting with Mr Jacques Santer, Luxembourg Prime Minister, and Mr Jacques Poos, Luxembourg Deputy Prime Minister and Foreign Minister (Luxembourg)
- 6 December: Meeting with Mr Grinberg and Mr Cornerotte of the Belgian Federal Federation of Labour (Brussels)
- 7 December: Meeting with Mr Lutz Stavenhagen, Minister of State at the Chancellery (Bonn)
- 10 December: Meeting with Mr Fonteneau, ILO delegation (Brussels)
- 12 December: Meeting with Mr Wilfried Martens, Belgian Prime Minister
- 12 December: Meeting with Mr R. Lubbers, Dutch Prime Minister, and Mr P. Dankert, Secretary of State for European Affairs (The Hague)
- 13 December: Meeting with Mr Charles-Antoine Arnaud, Union of Young Workers' Hostels
- 20 December: Award to Mr Jacques Delors, Commission President of Hans Böckler prize for 1990 (Kleve-Niederrheim, Germany)
- 21 December: Meeting with Mr Sigurt Vitols, Wissenschaftszentrum für Sozialforschung, Berlin (Germany)

Fact-finding visits

The following groups visited the Committee during the period covered by this Bulletin:

- 3 December Portuguese Farmers' Confederation
- 4 December Erasmus Universiteit, Rotterdam (Netherlands)
(doctoraalstudenten bestuurskunde)
- 5 December Institut régional d'administration de Lille (France)
- 5/6 December French Economic and Social Council (Paris)
- 6/7 December Greek General Confederation of Labour (Athens)
- 7 December VDL-Bundesverband (Verband Deutscher Akademiker für Ernährung, Landwirtschaft und Landespfl ege eV), Bonn
- 10 December Ufficio regionale d'Umbria, Perugia (Italy)
- 10 December Economische Faculteitsvereniging, Rotterdam
(Netherlands)
- 10 December Spanish Employers' Confederation
- 11 December FTF — Funktionærernes og Tjenestemændenes Fællesråd, Copenhagen (Confederation of Danish civil servants and salaried employees)
- 11 December Euroconsulent, Tilburg (Netherlands)
- 12 December Cefpar — European centre for agricultural and rural promotion and training (France)
- 13 December Havre University — Faculty of International Affairs (Le Havre, France)
- 14 December Euroconsulent, Tilburg (Netherlands)
- 19 December The Industrial Society, London
- 20 December Chambre de commerce et d'industrie interdépartemental Val d'Oise — Yvelines — Institut de techniques de vente et de commercialisation, Saint-Germain-en-Laye (France)

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Target date 1992: The ESC supports 'the new-frontier Europe' (June 1988) (seven Opinions) (ESC 88-010)
A policy for upland areas (December 1988)
Contribution to a European environmental policy (ESC-89-020)
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Effects of the CAP on the social situation of farmworkers in the European Community (Brussels, 1987) (ECU 3.40)
European environment policy: air, water, waste management (Brussels, 1987) (ECU 3.50)
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