

ECONOMIC AND SOCIAL CONSULTATIVE ASSEMBLY

BULLETIN

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283rd Plenary Session of 30 and 31 January 1991

The 283rd Plenary Session of the Economic and Social Committee of the European Communities was held in Brussels on 30 and 31 January 1991, with Mr François Staedelin, Chairman, in the chair. Mrs Christiane Scrivener, Member of the Commission, attended the Session and took part in the preparation of the Opinion on excise duties.

On this occasion the Committee adopted the following Opinions.

1. AGRICULTURE AND THE ENVIRONMENT

Proposal for a Council Regulation (EEC) on the introduction and the maintenance of agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside
[COM(90) 366 final]

Gist of the Commission proposal

The Commission is seeking to place a greater emphasis on the environment in the common agricultural policy. Such a step is necessary in the Commission's view given the disappointing results so far obtained from the two measures being pursued as part of the policy on agricultural structures, namely the payment of premiums to promote extensification and to promote the introduction of farming practices compatible with environmental requirements. The Commission therefore proposes that a new instrument be introduced in place of the two existing schemes.

Under the Commission proposal the Member States would be obliged to introduce a system of aid designed to reduce agricultural pollution through a substantial curtailment of the quantities of fertilizers and plant protection products used. Member States would

also be able to provide financial incentives to promote the use of other farming practices compatible with environmental protection.

As regards the set-aside scheme, the Commission proposes that an additional premium be granted, for a maximum period of 20 years, in the case of the afforestation of set-aside land or in the case of an ecological use of such land.

In order to encourage farmers to commit themselves to using less intensive farming methods compatible with environmental protection, the Commission proposes that an annual per hectare premium be granted to farmers who undertake, for a period of at least five years, to cut back their use of fertilizers and plant-protection products, while at the same time not increasing the use of these products on other parts of their holdings. The amount of the premium would be determined on the basis of the following three criteria: the commitment undertaken by the farmer, the loss of revenue and the level of reduction involved.

The maximum amount of the per hectare premium, to be met out of EAGGF funds, would be as follows: ECU 180 for annual crops and pasture; ECU 300 for specialized olive groves; ECU 900 for citrus fruits; ECU 600 for other perennial crops and wine.

Application of the above measure would be mandatory throughout the EC. In addition to the area of fertilizers and plant-protection products, Member States would also be able to extend the scheme to other farming practices having a bearing on the protection of the environment and natural resources.

The proposed measures would not apply to the spreading of animal manure. The methods of utilizing and disposing of animal manure will, in the Commission's view, have to be the subject of further consideration. The Commission intends to put forward proposals in respect of the problems of environmental protection and stock-raising by 31 March 1991.

The Commission also proposes the introduction of an aid scheme to promote the upkeep of abandoned farmland or woodlands in areas especially threatened by natural hazards (erosion, flooding) or fire, particularly as a result of the abandonment of farming or large-scale depopulation. The maximum amount of the annual premium per hectare eligible under the Guidance Section of the EAGGF would be ECU 150.

The Commission further proposes that beneficiaries of aid under the set-aside scheme may receive an additional premium (up to ECU 100 per hectare) if they undertake to carry out special

measures for the upkeep of set-aside land for the purpose of protecting and improving the environment. Furthermore, if farmers eligible for aid under the set-aside scheme afforest the land in question or use it for ecological purposes recognized by the EC, the aid may be granted for a period of up to 20 years.

Gist of the Committee Opinion ¹

The Committee takes a positive view of the general approach of the Commission proposal.

It considers that the conditions for implementation of the proposed measures have been fulfilled, and that a premium scheme for farmers using environment-friendly techniques could compensate for any loss of earnings incurred as a result of lower yields. Product quality is, however, likely to improve, to the benefit of the consumer.

Integrated back-up services and a series of incentives for farmers should be introduced, to prevent those in the weakest position bearing the start-up costs. The Section considers the Commission proposal to be lacking in substance on this point.

This Opinion, adopted by a large majority with one vote against and nine abstentions, was drawn up in the light of the paper produced by the Section for Agriculture and Fisheries, chaired by Mr André Laur (France — Various Interests). The rapporteur was Mr Giovanni Mantovani (Italy — Various Interests).

2. NUCLEAR FISSION SAFETY

Proposal for a Council Decision on a specific research and technological development programme in the field of nuclear fission safety (1990-94)
[COM(90) 343 final]

Gist of the Commission proposal

The proposed programme comes under the fifth line of action of the framework programme for Community activities in the field of research and technological development (1990-94) — Energy — whose aim is 'the development of sound, environmentally safe

¹ CES 136/91.

energy technologies designed to improve the Community's energy balance at reasonable expense within the large market'.¹

The proposed programme on nuclear fission safety constitutes the second part of that line of action. More specifically it aims: (i) to foster joint efforts designed to assist the Member States in honouring their responsibilities for regulating and protecting the environment; (ii) to promote a standardized approach to safety by involving all parties concerned; and (iii) to reinforce the prenormative dimension of research, *inter alia* in radiation protection and reactor safety.

The new programme corresponds to some extent to the radiation protection programme (1985-89 and 1990-91) of the research action programme contained in the framework programme for technological research and development.²

It covers two different areas and total funding under the Community budget is estimated at ECU 37 million, broken down as follows:

- (a) Radiation protection 78-79%
- (b) Reactor safety 21-22%

ECU 0.37 million has been earmarked for centralized dissemination and exploitation of the results of the specific, complementary research programmes, in accordance with Article 4 of the decision on the 1990-94 framework programme.

The programme will be implemented through shared-cost research contracts and concerted actions, including accompanying measures as set out in the Annex to the Decision.

It should be noted that the programme will be implemented in part through direct research activities carried out by the JRC. Such activities will be the subject of a separate Council decision; ECU 162 million has been earmarked for these activities.

The Commission proposal spells out the role and procedure of the Consultative Committee which is to assist it in implementing the programme. It also provides for:

- (i) a review, in 1992, of the programme, accompanied if necessary by proposals for its amendment, and an evaluation

¹ OJ L 117, 8.5.1990, p. 40 (English version).

² COM(83) 301 final, 1.6.1983.

of the results achieved; these reports will be forwarded to the Council and the European Parliament in accordance with Article 2(4) of Decision 90/221/EEC/Euratom.¹

- (ii) the possibility of third countries and international organizations concluding agreements with the Community to enable them to cooperate on the programme.

The Consultative Committee is covered by Articles 2 to 6 of Council Decision 84/338/Euratom/ECSC/EEC.²

Gist of the Committee Opinion³

Although the Committee regards research and development work on radiation protection and reactor safety as the inescapable duty of the Community, and therefore basically endorses the aims of and need for the R&D programme, it also regards the funding for this specific programme as totally insufficient and strongly urges that it be increased.

Other points raised in the Opinion concern:

the rather vague relationship of the reactor safety subprogramme to other Community R&D in this field;

the joining of two unrelated subprogrammes under one imprecise, general heading;

the successive cuts in the radiation protection budget, contrary to the ESC Opinions and the conclusions of the Management and Coordination Committee in its assessment of previous programmes;

the importance of international cooperation, especially with the USSR (Chernobyl case) and other Eastern European countries;

the importance of nuclear fission as a future source of energy which will not exacerbate the greenhouse effect;

the lack of information on the JRC programme which makes it impossible to evaluate the activities proposed in this programme;

the importance of these concerted actions as a means of achieving the required level of European and international coordination in this field;

¹ OJ L 117, 8.5.1990, p. 28.

² OJ L 117, 4.7.1984, p. 25.

³ CES 141/91.

a request that the Commission send its reports on the programme review and any proposals for changes to the ESC so that it can give its views.

This Opinion, which was adopted unanimously, was drawn up in the light of the paper produced by the Section for Energy, Nuclear Questions and Research, chaired by Mr Aldo Romoli (Italy — Employers). The rapporteur was Mr Klaus Benedict von der Decken (Germany — Various Interests).

3. USSR, ROMANIA, BULGARIA — FOOD AID

Proposal for a Council Regulation (EEC) introducing a Community guarantee for exports of foodstuffs from the European Community to the Union of Soviet Socialist Republics and the proposal for a Council Regulation (EEC) on urgent action to supply agricultural products to the USSR, Romania and Bulgaria
[COM(90) 670 final]

Gist of the Commission documents

At its meeting on 15 and 16 December 1990 the European Council decided in principle to provide humanitarian aid to the USSR, Romania and Bulgaria.

This aid will take two forms, namely a direct supply of foodstuffs and a guarantee for loans granted to the USSR for the purchase of agricultural products.

Given the urgent need for food aid, the Commission is submitting these proposals for Council Regulations with a view to their immediate adoption.

The food aid itself consists of the supply, free of charge, of agricultural products to the USSR, Romania and Bulgaria. Expenditure on this scheme is limited to ECU 350 million, namely ECU 250 million for the USSR and ECU 100 million for Romania and Bulgaria.

In view of the situation on the agricultural markets, priority is to be given to supplying these products from intervention stocks. Provision is, however, to be made for mobilizing products on the Community market in response to specific requests.

The other part of the aid consists of a credit line to the USSR for the purchase of food products in the EC. This credit line would be provided to the USSR on the terms (interest rate etc.) available on the market to the Community. This means that a guarantee from the Community budget will be needed should the USSR default.

A financial facility amounting to ECU 500 million will be set up under an accord between the Commission and the USSR. This accord will provide for a guarantee through the Community budget for a credit to be arranged between the USSR and a pool of commercial banks for the financing of imports into the USSR of Community agricultural goods.

The credit will be of four-year maturity, with interest payments only in 1991 and 1992. The principal will be repaid in equal instalments in 1993 and 1994. The main risk to the Community budget, should the USSR default on its loan repayments, would therefore occur after 1992.

Gist of the Committee Opinion ¹

In view of the dire situation in the USSR, Romania and Bulgaria, the Economic and Social Committee welcomes the emergency measures proposed by the Commission. The main aim of these measures is to improve the food supply situation in these countries.

A credit guarantee scheme for the export of agricultural and food products from the Community to the USSR is a sensible measure for ensuring that aid is given swiftly to the needy in the Soviet Union. The Committee assumes that the provision of such a facility will not prejudice other areas of export credit insurance.

So that food aid serves its purpose, care must be taken to ensure that products really do reach their destinations and the needy sections of the population. The Committee puts its trust here in the Commission's experience in organizing humanitarian aid and its close contacts with the authorities in the three countries. Experienced relief organizations should also be involved. The Committee would also suggest that the media be asked to report on the spot on the implementation of the relief measures, while the distribution of the consignments should be monitored by Commission observers.

¹ CES 143/91.

Furthermore, it should not be forgotten that assistance of this kind is able to lessen hardship only for a while. If a permanent solution is to be found to the underlying problems, the Committee thinks that the countries of Eastern Europe must press ahead with their reforms as a matter of urgency. In this case the Community should do more than in the past to tackle production and marketing deficiencies directly, e.g. by providing selective investment aid and transferring know-how.

This Opinion which was adopted unanimously was drawn up in the light of the paper produced by the Section for External Relations, Trade and Development Policy chaired by Mr Robert D'Hondt (Belgium — Workers). The rapporteur working alone was Mr Jens Peter Petersen (Germany — Employers).

4. CAPITAL ADEQUACY.

**Proposal for a Council Directive on capital adequacy
of investment firms and credit institutions**
[CES 1128/90 final]

Gist of the Commission document

Creation of a single European market in financial services is to be given further impetus by the present proposed Directive which determines the minimum capital requirements of investment firms wishing to operate throughout the Community.

The new proposal should be seen in the context of financial services in general. Credit institutions will be allowed to buy and sell securities on behalf of clients throughout the Community as from 1 January 1993 under the second Directive on banking coordination which was adopted by the Council of Ministers last year. The financial soundness of these institutions will be assured by application of the Directives on own funds and solvency ratio. The proposed Directive on investment services which is currently under discussion in the Council would give the same opportunities to non-bank investment firms, with the present Directive on capital adequacy laying down the prudential rules.

The solvency ratio requirements, however, are more demanding than those for capital adequacy, reflecting the different nature of the businesses.

During the discussions with Member States it became obvious to the Commission that these different requirements could raise

problems. It was therefore decided that the objectives of the investment services Directive could be most effectively achieved by giving banking supervisors the choice between applying the existing 8% solvency ratio Directive to all the bank's activities including its trading operations, or allowing banks to separate out the investment trading book and making it subject to the capital adequacy provisions.

The new Directive applies to all firms carrying out financial investments on behalf of clients, whether they are banks or specialized securities houses, dealers, brokers or investment managers.

The basic requirement of the Directive is that investment firms should have an initial capital of at least ECU 500 000. Member States could reduce this amount to ECU 100 000 for firms which act as agents or portfolio managers but which do not hold trading positions of their own. For firms which are not authorized to hold customers' money or securities, nor to act as market-makers, Member States may reduce the minimum amount to ECU 50 000. Special provisions are included whereby Member States can continue to authorize firms which were in existence before the Directive was implemented whose funds are below the minimum levels, as long as those funds do not decline further after the Directive has been notified and a base level of capital related to turnover is maintained. There are also special conditions to deal with mergers and crisis conditions in a particular company. Investment advisers are not regarded as investment institutions for the purposes of the Directive.

Gist of the Committee Opinion ¹

The Committee supports the proposal for a Directive.

The Bank for International Settlements is currently looking into the exchange risks and market risks of credit institutions. The end result should be some convergence between the Community and international bodies both as regards the content of the rules which will be laid down and the date on which they are to come into force.

The assessment of risk leads to the question of consolidation, which has been the subject of a draft Council Directive on the supervision of credit institutions on a consolidated basis replacing Directive 83/

¹ CES 134/91.

350/EEC. In the Committee's view, the treatment of prudential risk should be part of a consolidated approach.

Consolidated supervision would make it possible to:

- (i) carry out a realistic and overall assessment of the risks borne by a group and its own funds; and
- (ii) ensure competition on equal terms between banks and non-banks.

For these reasons, the Committee proposes that Article 3 of the solvency ratio Directive should be included in the present proposal as a new Article 4a, subject to the necessary terminological adjustments being made.

As the proposal aims to offer equivalent options to non-bank investment firms and credit institutions (Article 4(4)), it would be desirable for the choice between these options to come from the firms themselves rather than solely from the supervisory authority.

For firms other than credit institutions the planned initial capital requirements (Article 3) are lower than those laid down for credit institutions in the second banking coordination Directive.

As credit institutions are less specialized and their activities are more varied, their risks are dispersed; the second Directive has taken this into account, but all the same the initial capital requirements are higher. However, the Committee recognizes that, for certain Member States, higher levels of minimum initial capital would place a burden on many investment firms. Furthermore, the Committee is concerned that higher levels of minimum initial capital would give an advantage to transmitters of orders (brokers, investment counsellors) in non-EC markets, such as New York, which have significantly lower levels of capital requirements.

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 Ann Robinson (United Kingdom — Employers). The rapporteur was Mr Robert Pelletier (France — Employers).

5. INSPECTIONS — CARRIAGE OF GOODS

Proposal for a Council Directive amending Directive 83/643/EEC of 1 December 1983 on the facilitation of physical inspections and administrative formalities in respect of the carriage of goods between Member States

[COM(90) 356 final — SYN 284]

Gist of the Commission proposal

Directive 83/643/EEC set out a package of measures for reducing the length of time which goods transport is held up at the Community's internal frontiers. This Directive therefore marked an important step forward in reducing the obstacles to trade flows across intra-Community frontiers.

The Commission is, however, of the opinion that the application of some of the rules laid down in the Directive needs to be improved with a view to simplifying and speeding up the trade in goods across the Community's internal frontiers, particularly given the impending establishment (by 31 December 1992) of the single market and a frontier-free Community.

To this end the Commission proposes that the following amendments be made to the 1983 Directive:

- (i) the terms 'inspections' and 'formalities' should be interpreted in such a way as to allow the visual inspection of goods or means of transport to be carried out by means of spot checks, except in duly justified circumstances;
- (ii) the definition of the sample base of spot checks in order to ensure uniform interpretation and prevent checks being carried out on each consignment;
- (iii) the carrying-out of the various inspections and formalities at the place of departure or destination of the goods;
- (iv) an extension of the minimum business hours of inspection offices in the Member States.

Gist of the Committee Opinion¹

Broadly speaking, the Committee agrees with and welcomes the Commission proposals.

This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Transport and Communications, chaired by Mr Eike Eulen (Germany — Workers). The rapporteur was Mr Ulbo Tukker (Netherlands — Employers).

¹ CES 135/91.

Extracts from the speech on excise duties by Mrs Christiane Scrivener, Member of the Commission

'Thank you for the support of the Economic and Social Committee, which I know to be in earnest and reliable': this was how Mrs Scrivener, the European Commissioner responsible for tax matters, replied on Thursday, 31 January, to the 189 Members of the Economic and Social Committee of the European Communities, before the Committee adopted its Opinion on four draft Directives relating to excise duties.

No tax havens for wine-drinkers

While supporting the Commission's general approach in its desire to harmonize the structures of specific excise duties, the Economic and Social Committee proposes some changes to the draft Directives. In particular, the Committee takes the view that beer and wine are part of the normal diet in many Member States and that these drinks should be exempted from specific excise duties, or, failing that, subject to as low a rate as possible.

'It is difficult to get seven Member States to accept the abolition of excise duties on wine and to get all the Member States to accept the abolition of duties on beer', replied Mrs Scrivener. 'The Commission is preparing a minimum rate for wine and beer — a very low rate of about BFR 4 or FF 0.65 per bottle. This rate is compatible with the Community policy of promoting quality products. This is my response to your wish for "tax havens" for wine- and beer-drinkers', added Mrs Scrivener.

With regard to taxes on the consumption of manufactured bacco, the Commissioner pointed out that the Committee wished to replace the concept of 'maximum retail prices' with that of 'imposed prices'. The Committee thought it was necessary for manufacturers and importers to determine not only the minimum retail selling prices as proposed by the Commission but retail selling prices in general, which would result in an imposed price at the upper and lower levels: 'This would run counter to the Treaty of Rome', pointed out Mrs Scrivener. 'Every retailer must have the possibility of selling tobacco below the maximum prices, even if the tax is based on those maximum prices.'

Finally, on the harmonization of the structures of excise duties on mineral oils, Mrs Scrivener noted that the Committee agreed that optional taxation of natural gas gave rise to no problems of frontier checks, but feared that the fact that the Commission had excluded natural gas from the list of products subject to excise duties might

cause competition distortions. 'I note this, and other comments', replied the Commissioner. For example, the Committee advocates the abolition of any excise duty on heavy fuel oil used solely for production purposes, and the treatment of all energy sources on an equal footing.

Working group on company taxation

In her reply to the various questions, Mrs Scrivener first reiterated the basic principles of the Commission in this field:

'My task is not to deal with all the taxation problems in the Community, but only with what makes possible and conceivable the completion of the single market. This will require a certain amount of approximation. There will be different effects on different countries, but the Commission will keep an eye on the development of taxation in the various Member States. We wish to ensure that the single market is possible from 1 January 1993. That is our task. But we have already set up a working group on what needs to be done after 1992 in the company taxation field.

We have committed ourselves to settling the question of rates by the end of 1991. The Member States will have another year after that to decide what they need to do at the national level.

The great difficulty in this matter is the need to obtain a unanimous decision by the Council of Ministers. My position is that unanimity is necessary to lay down the main objectives for progress in European integration (taxation, social matters, etc.) but once these objectives have been defined, the qualified majority rule must apply. Otherwise the national administrations, instead of seeking consensus on implementation, would jeopardize the decisions of the Heads of State or Government.'

The moment of truth approaches

'The field of taxation is a very difficult one but we are making progress. There are more and more signs that a political will exists. A very ambitious programme has been proposed by the Luxembourg Presidency. Luxembourg itself must take measures at the national level to make progress possible, but in this field there are no good or bad countries: they are all good and bad...

The moment of truth is approaching. If we do not make the necessary progress in this field — but we shall manage it — the single market will not be achieved. What must we do? We must create the single market, not overload enterprises and make sure

that checks are seriously carried out: we have sought a balanced compromise in all this.'

Answering the more specific questions put to her, Mrs Scrivener made the following points:

Environment: Taxes on CO₂ should be integrated in excise duties on diesel oil and in the calculation of tax stamps. A concerted approach with industrialists and consumers was desirable to provide tax incentives against pollution.

Zero rate: The Commission was prepared to accept a solution maintaining zero rates without creating any new ones.

Duty-free system: Although there was a powerful lobby for this, it was impossible to have both the single market and a duty-free system. It was intellectually contradictory. This was a reply in principle, and it remained to be seen how things would develop.

Combined nomenclatures: These made it possible to be as exhaustive as possible, to cover all the products concerned and to achieve a convergence between the definition of industrial and agricultural products on the one hand, and tax necessities on the other.

In conclusion, the Commissioner stressed that the Economic and Social Committee should be aware of 'the considerable will of the Commission, the Heads of State or Government, the Luxembourg Presidency and the future Dutch Presidency, which sometimes have to go against their own national interests, as is normal when presiding over the Community. The Luxembourg Presidency is courageous and determined.'

6. EXCISE DUTIES

Proposal for a Council Directive on the general arrangements for products subject to excise duty and on the holding and movement of such products
[COM(90) 431 final]

Proposal for a Council Directive on the harmonization of the structures of excise duties on alcoholic beverages and on the alcohol contained in other products
[COM(90) 432 final]

Proposal for a Council Directive amending Council Directives 72/464/EEC and 79/32/EEC on taxes other than turnover taxes which are levied on the consumption of manufactured tobacco
[COM(90) 433 final]

Amended proposal for a Council Directive on the harmonization of the structures of excise duties on mineral oils
[COM(90) 434 final]

Gist of the Commission document

The four proposals for Directives, which complement the proposals of October 1989 on excise duties, cover two areas:

- (a) the rules which must be laid down by the time of the single market's completion on harmonizing duties on each of the major categories of excisable products (alcohol, tobacco and mineral oils); these are known as the rules on the structure of excise duties, i.e. a common definition of taxable products; and
- (b) the general arrangements for the movement and monitoring of goods liable for excise duties (alcoholic beverages, tobacco and mineral oils) after 1992, i.e. after the abolition of border controls. The Commission has limited the ambit of its proposals to measures which are essential for the elimination of fiscal frontiers, which is a basic building-block of the single market.

All purchases of alcohol, tobacco and mineral oils are subject to both VAT and an excise duty. Excise duties make up a major share (roughly one-third) of the receipts from indirect taxes in the Community. This tax on consumption, unlike VAT, which can be deducted, is only payable once and for all by the purchaser and only at the stage when products are made available for consumption.

The proposals lay down:

- (i) the taxation structure (or basis of assessment), i.e. what is taxed and how;
- (ii) the movement arrangements for excisable products, i.e. where goods are taxed and how the taxes collected get back to the coffers of the State where the product is consumed (system of interconnected warehouses).

In order to achieve the single market, there must be a minimum degree of harmonization as regards the definition of taxable goods, so that such goods can be taxed in a consistent manner in a market where the fiscal frontiers have been abolished.

These proposals lay down the definitive regime applicable to excise duties from 1 January 1993.

From 1993 onwards this regime will ensure that trade between and within Member States is subject to totally identical treatment.

Gist of the Committee Opinion ¹

The Committee welcomes the Commission's proposals on the harmonization of the structures of the specific excise duties. However, harmonization measures in this field cannot ensure that the distortions of competition caused by excise rate disparities are counteracted.

The fact that the Commission confines itself to a small number of excise duties is welcomed.

Checks, which are the responsibility of the Member States, should be effective, but their sole purpose should be to prevent tax fraud and smuggling.

The Committee suggests a number of amendments to the draft Directive on the general arrangements for products subject to excise duty and on the holding and movement of such products; these amendments are intended to clarify the Commission text, particularly with regard to the customs territory, the chargeable event, the acquisition of products subject to excise duty, exceptions in the mail-order trade, limitation of cases where a guarantee is required, identification of products, the setting-up of a numbered register, and differentiation between identification markings and tax markings.

¹ CES 140/91.

As in its earlier Opinions, the Committee feels that beer and wine are part of the normal diet in many Member States and that these drinks should be exempted from specific excise duties, or failing that subject to as low a rate as possible.

As with other excise duties, the harmonization of structures and rates for the duty on tobacco must be seen as a whole.

It is necessary for manufacturers and importers to determine not only the maximum retail prices, as the Commission proposes, but the 'retail selling price', thereby fixing not only a ceiling price but also a floor price.

The Committee would also like to see a definition of the term 'importer', further exceptions made and distinctions made between certain types of tobacco.

On mineral oils, the Committee thinks it could be preferable to limit excisable products to the traditional refinery products.

Certain concepts, notably tax base, exemptions, operations and checks, should be clarified.

The fact that the Commission has excluded natural gas from the list of excisable products may cause distortions of competition, and, in accordance with earlier Committee Opinions, the Section advocates the abolition of all excise duties on heavy fuel oil used purely for production purposes, and the equal treatment of all energy sources.

This Opinion, adopted by a large majority with three votes against, and two abstentions, was drawn up in the light of the paper produced by the Section for Economic, Financial and Monetary Questions, chaired by Mr Jean Pardon (Belgium — Employers). The rapporteur was Mr Jens Peter Petersen (Germany — Employers).

7. MARITIME TRANSPORT

Proposal for a Council Regulation (EEC) on the application of Article 85(3) of the Treaty to certain categories of agreements, decisions and concerted practices between shipping companies
[COM(90) 260 final]

Gist of the Commission proposal

The aim of the proposal is to empower the Commission to declare that Article 85(1) of the Treaty is not applicable to certain

categories of agreements, decisions and concerted practices between shipping consortia.¹

The Commission can declare by way of a Regulation that Article 85(1) is not to apply to consortia agreements. This Regulation must specify the relevant categories of agreements, decisions and concerted practices and state under what conditions these categories are considered to be exempt from the application of Article 85(1) of the Treaty, in accordance with Article 85(3).

In order to justify its proposal, the Commission points out that the Community shipping industry must make economies of scale if it is to compete on the world liner shipping market. Consortia can help to provide the necessary means for improving the productivity of liner services and promoting technical and economic progress by aiding and encouraging the use of containers.

The users of the shipping services offered by consortia will also reap several important benefits. Firstly, they are assured regular sailings at rates which do not depend on the vessels used for their containers. Secondly, economies of scale are made in the use of vessels and port installations. Thirdly, since consortia generally allow a better utilization of capacity, costs will also be reduced. Fourthly, the consortia will offer a better quality service by using more modern vessels, equipment and port installations. And last but not least, by pooling inland transport services, the consortia will be responding to the call of numerous shippers for more efficient door-to-door shipments.

The proposal is accompanied by a report on the possibility of group exemptions for consortia.

Gist of the Committee Opinion²

Many shipping lines have grouped together to form consortia, first at national level and then also internationally. In the light of the indisputable commercial value of consortia, the Committee believes that a regulatory regime for them under the EC competition rules is necessary, based upon two premises: preservation of a free competitive environment whilst avoiding, as far as possible, bureaucracy.

¹ Consortia: joint operation of vessels by individual shipping companies.

² CES 138/91.

Under the draft Council Regulation the Commission could grant a group exemption pursuant to Article 85(3) of the Treaty. The draft Council Regulation envisages a group exemption also for multi-modal consortia which would cover the inland transport activities of consortia. Conditions and obligations safeguarding free competition and attaching to the group exemption will be decided at a later stage in a Commission Regulation.

The Committee endorses the draft Regulation but believes that the Commission should spell out more clearly along what lines it intends to proceed concerning the terms and conditions of the block exemption. Such conditions should safeguard free competition at three levels: within the consortium, within the Conference and within the trade, as well as protecting transparency. The Committee recommends a legal treatment of consortia subject to checks and balances without granting a blank cheque either to the Commission or to consortia.

This Opinion which was adopted by 82 votes for, 11 against and 26 abstentions, was drawn up in the light of the paper produced by the Section for Transport and Communications, chaired by Mr Eike Eulen (Germany — Workers). The rapporteur was Mrs Anna Bredima-Savopoulou (Greece — Employers).

8. MEDICINAL PRODUCTS PROTECTION CERTIFICATE

**Proposal for a Council Regulation (EEC) concerning
the creation of a supplementary certificate for
medicinal products**

[COM(90) 101 final — SYN 225]

Gist of the Commission document

Patented medicinal products have been protected for a shorter time in the EC than in the USA or Japan. Theoretically, the duration of patent protection in Europe today is 20 years but in practice this period of exclusive use is reduced to only eight years because of the lengthy authorization procedures required to place a medicinal product on the market.

In the view of the EC Commission this situation calls for swift action by the Twelve. It is therefore proposing a simple, non-bureaucratic solution to extend the *de facto* duration of medicinal product protection in Europe too.

The solution proposed in the Regulation is that national authorities would issue a supplementary protection certificate, to take effect immediately on expiry of the patent for a maximum period of 10 years.

The Commission's move is prompted by the steady erosion in EC pharmaceutical R&D activities that has been observed over the past 10 years. Public health research is vital to preserve the competitive edge of EC pharmaceutical firms on the world market.

For the past two years there has been a decrease in the number of molecules (the term used to designate basic substances) of European origin that have reached the R&D state — 40% as against 65% 10 years ago — and a slow erosion of European market shares as compared with those of the USA and Japan.

Lastly, the Commission proposes that the Twelve act fast to adopt the certification scheme towards the end of 1991 to guard against a further risk: that individual Member States will grant supplementary protection for medicinal product patents, thereby impeding harmonization on a Community scale.

In this Regulation, the Commission proposes a supplementary certificate covering all substances for treating or preventing disease in human beings or animals as well as all substances which may be administered to human beings or animals with a view to making a medical diagnosis or to restoring, correcting or modifying physiological functions.

Although the Commission proposes that the certificate apply for a maximum period of 10 years, this term of protection will be only five years in the case of any product protected by a patent expiring after 1 July 1992 where the first authorization for placing the product on the EC market was obtained after 1 July 1984.

The certificate will therefore be a national one, aligned on a Community scale — and, where applicable, encompassing the EFTA countries in the light of possible future discussions on the matter — and will differ fundamentally from the basic patent.

Gist of the Committee Opinion ¹

The Committee essentially endorses the aim of the Commission proposal and the greater protection for the European pharmaceuticals industry for which it provides.

In the Committee's view the additional period of patent protection provided by the proposed certificate should also be looked at.

A fair solution would be to align on US and Japanese patent protection laws so as to safeguard the competitive position of the Community's pharmaceuticals industry worldwide.

The interests of generics producers, who influence price competition in a number of market segments, must also be borne in mind. In this connection, a balance must be maintained between the interests of this industry and pharmaceuticals research.

This Opinion, adopted by 81 votes for, one vote against and five abstentions, was drawn up in the light of the paper produced by the Section for Industry, Commerce, Crafts and Services, chaired by Mrs Ann Robinson (United Kingdom — Employers). The rapporteur was Mr G. H. E. Hilken (Netherlands — Various Interests).

9. BOVINE SOMATOTROPIN

Proposal for a Council Decision amending Decision 90/218/EEC concerning the administration of bovine somatotropin (BST)
[COM(90) 531 final]

Gist of the Commission proposal

The original decision banned the administration, within the Community, of bovine somatotropin to dairy cattle until 31 December 1990. The Commission is now proposing that the ban be extended by 12 months. The reason given is that more time is required to complete the in-depth studies under way in specialist institutes.

¹ CES 139/91.

Gist of the Committee Opinion¹

The Committee approves the Commission proposal in view of the importance of this matter for both consumers and farmers, and the need for in-depth studies.

This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the rapporteur-general Mr. Augusto Gil Bensabat Ferraz da Silva (Portugal — Workers).

10. GENERALIZED SYSTEM OF PREFERENCES 1991-2000

**Communication from the Commission to the Council
on the generalized system of preferences: 'Guidelines
for the 1990s'**
[COM(90) 329 final]

Gist of the Commission document

It is almost 20 years since the Community first introduced its generalized system of preferences. The objectives of these generalized non-reciprocal and non-discriminatory trade preferences offered to developing countries by the industrialized countries were: (i) to increase export earnings of developing countries; (ii) to promote industrialization of developing countries; (iii) to accelerate economic growth in developing countries.

The last time the Commission overhauled the GSP was in 1985. Each year, however, it issues the scheme for the following year. The Council adopted the Commission's proposal for 1991 on 4 December 1990. In the mean time, however, the Commission in its communication to the Council entitled 'Guidelines for the 1990s' (or GSP 1991-2000) reports in detail on its latest review of the GSP. It reasserts its conviction that the system is a useful one to have, recognizing however that it is in urgent need of an adaptation to recent changes that have occurred — largely as a result of the GATT: developing countries have less need of the facilities offered by the GSP (principally reduced-rate customs duty) as a result of the greater degree of deregulation negotiated by the GATT contracting parties and the developing countries' gradual integration into the multilateral trading system.

¹ CES 137/91.

The Commission is proposing that from 1992 onwards, the GSP should be made more 'attractive' by: streamlining some of the mechanisms which have become too complicated to be of advantage, in practice, to developing countries; increasing the preferential margins by taking into account product sensitivity; harmonizing the GSPs of Western aid donors, thus working towards a situation where trade deregulation is operated on a shared basis; and improving the special treatment for the least-developed countries (LLDCs).

In brief, then, the new-look GSP should be simpler than the previous system with its multitudinous quotas and ceilings; it should be more worthwhile (where it is applicable); it should be more stable (lasting on each occasion at least three years); it should be more transparent.

Since the Commission sees the new GSP as being complementary to GATT (the priority for LDCs being to achieve a successful outcome in the current GATT/Uruguay Round negotiations by getting the best concessions for themselves) no figures are being proposed by the Commission at this stage: these will come once the Uruguay Round has been concluded.

Gist of the Committee Opinion ¹

The Committee Opinion in fact largely reiterates and tacitly agrees with the Commission's own analysis of the weaknesses of the existing Community GSP. The Economic and Social Committee has succeeded in having the Commission, in this communication, take on board so many of the criticisms and observations which the Committee has, over the years, lodged with the Commission in its various Opinions.

Efficiency implies, among other things, a narrowing of the field of application and a concentration of benefits on fewer countries. (The Commission would have the scheme remain open, in principle, to the present beneficiaries).

The Committee would reaffirm here its own proposals that any country with a per capita GDP higher than that of an EC country should in principle be excluded from the GSP.

¹ CES 142/91.

This is a step in the right direction but on its own would be insufficient. To concentrate benefits even further the Committee is proposing that:

- (a) thresholds as at present laid down for assessing product/country pairs for exclusion from its GSP, should be reduced;
- (b) minimum social clauses should be introduced — independently of the hoped-for agreements in this field, to be worked out together with other countries granting GSPs.

The Committee would like to consider concentrating GSP benefits on the least-developed countries (LLDCs); although it acknowledges that it is not practical to do so at the present time.

Finally, as regards the duration of the scheme, the Committee agrees with the Commission's intention to move from an annual to a three-yearly review and to limit recourse to safeguard clauses to really exceptional and verified cases, possibly varying from product to product.

This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for External Relations, Trade and Development Policy, chaired by Mr Robert D'Hondt (Belgium — Workers). The rapporteur was Mr Giorgio Liverani (Italy — Workers).

External presence and influence of the ESC

Activities of the Chairman and the Secretary-General

7 January 1991, Brussels: talks with Mr Gérard Fonteneau of the International Labour Office (ILO).

8 January 1991, Brussels: meeting of ESC/EFTA contact group.

15 January 1991, Paris: meeting at the CFDT (French Democratic Labour Confederation).

15 January 1991, Paris: talks with Mr Jean Matteoli, Chairman of the French Economic and Social Council.

16 January 1991, Paris: talks with the cabinets of the Ministry of Labour, Employment and Vocational Training and the Ministry of the Economy, Finance and the Budget.

18 January 1991: talks with Mrs de Vos-van Steenwijk, Chairman of ATD-Quart Monde.

21 January 1991, Brussels: meeting with Mr Rachid Sfar, Special Ambassador and Head of the Tunisian Representation to the EC.

22 January 1991, Strasbourg: talks with Mr Pierre Carniti, Member of the European Parliament.

25 January 1991, Brussels: meeting with Mr David Elliot at the United Kingdom Permanent Representation.

25 January 1991, Paris: talks with Mrs Caroline de Margerie to prepare the talks between the ESC Chairman and the President of France.

25 January 1991, Paris: speech by the Secretary-General on 'The consequences of the changes in Eastern Europe on the process of

European unification' as part of the lectures organized by Centre 72.

28 January 1991, Brussels: talks with Mr Francisco Fernandez Fabregas, Director-General of the Council.

30 January 1991, Brussels: meeting with Mr Louet, Mr Lucas and Mr Caballero of the Institute for International Social Cooperation.

31 January 1991, Madrid: participation in the sixth international conference entitled 'Towards an economic progress in peace' organized by the Círculo de Empresarios. Theme of the Secretary-General's speech: 'The role of the two sides of industry in framing and implementing economic policies'.

Fact-finding visits

During the period under review the following fact-finding visits were made to the ESC:

- 4 January 1991 University of St Thomas, St Paul, Minnesota (USA)
- 8 January 1991 Linfield College (Economics and Business Department), McMinnville (USA)
- 16 January 1991 Commerzbank, Bochum (Germany)
- 17 January 1991 Institut rural de Lesneven (France)
- 21 January 1991 Aarhus Kobmansskole (Denmark)
- 23 January 1991 Hogeschool (Economisch-Juridische Afdeling) (Netherlands)
- 23 January 1991 Institut Libre 'Marie Haps', Brussels (Belgium)
- 24 January 1991 Waltham Forest College (United Kingdom)
- 24 January 1991 Staffordshire Polytechnic (United Kingdom)
- 24 January 1991 Unión Nacional de Cooperativas de Consumidores y Usuarios de España, Madrid (Spain)
- 24 January 1991 The American University, Washington DC (USA)
- 25 January 1991 Friedrich-Ebert-Stiftung (Germany)

LIST OF PUBLICATIONS AND BROCHURES

Available from the ESC

General documentation

- The other European Assembly (CES 90-024)
- Leaflet on the ESC

Opinions and studies

- Disadvantaged island regions (July 1988) (ESC 88-009)
- Horizon 1992: The ESC supports the removal of fiscal frontiers (July 1988) (eight Opinions)
- 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)
- Economic and monetary union in the European Community (ESC-89-021)
- Competition policy (ESC-90-003)
- The right of the European citizen to move freely (ESC-90-004)
- Consumer information (ESC-90-008)
- The future of rural society (ESC-90-011)
- Statute for the European company (ESC-90-016)

Available from the EC Publications Office

- Bulletin (monthly) (per issue: ECU 5; annual subscription: ECU 45)
- Annual Report 1989 (ECU 12)
- 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)
- Community rail policy (ECU 7.40)
- EEC maritime transport policy (Brussels, June 1986) (ECU 3.40)
- EEC air transport policy (October 1985) (ECU 5.50)
- GATT — towards a new round (Opinion) (Brussels, 1986) (ECU 2.20)
- Competition policy (ECU 3.40)
- The economic and social situation in the Community (1989) (ECU 7.50)

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