

ECONOMIC AND SOCIAL CONSULTATIVE ASSEMBLY

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Contents

	<i>Page</i>
I. 285th PLENARY SESSION OF 20 AND 21 MARCH 1991	3
1. European works council	3
2. Payments in the single market	7
3. Temporary and mobile worksites	9
4. Ozone layer	11
5. Promotion of energy efficiency — SAVE	12
6. R&D — Controlled thermonuclear fusion	16
7. Sweeteners	19
8. Common tax system — Royalty payments	20
9. Common tax system — Losses	22
10. Green paper: European standardization	25
11. Training (Force, Eurotecnet)	27
12. Processed fruit and vegetables	28
II. REPRESENTATION AND IMPACT OF THE ECONOMIC AND SOCIAL COMMITTEE	31
III. FACT-FINDING VISITS	33

I. 285th Plenary Session of 20 and 21 March 1991

The 285th Plenary Session of the Economic and Social Committee was held in Brussels, on 20 and 21 March 1991, under the chairmanship of Mr François Staedelin, Chairman.

The following Opinions were adopted by the Committee at this session.

1. EUROPEAN WORKS COUNCIL

Proposal for a Council Directive on the establishment of European works councils in European-scale undertakings or groups of undertakings for the purpose of informing and consulting employees
[COM(90) 581 final]

Gist of the Commission proposal

The aim of the Commission's proposal is to help improve the information and consultation of workers in European-scale undertakings and groups of undertakings. To that end, it is proposed that a European works council be set up provided that such a move is requested by the workers or their representatives by means of a transparent procedure. The initiative for setting up such a works council may likewise originate with the central management of the undertaking or group of undertakings in question, but must then meet with the assent of the workers' representatives.

The Commission's proposal is designed to cover European-scale undertakings or groups of undertakings, i.e. those whose total staff exceeds 1 000 persons and which have at least two establishments or undertakings in at least two Member States each employing at least 100 persons. The statistics for 1988 compiled by Eurostat show that major undertakings in the Community, i.e. those employing more than 500 persons accounted for less than 1% of the total number of undertakings but for 28% of jobs.

Once the thresholds referred to above have been reached by an undertaking or groups of undertakings:

- (i) a request for setting up a European works council is submitted by the workers or their representatives to the central management, which must then organize a meeting of the workers' representatives from all the establishments or undertakings. It should be noted that such an initiative may emanate from the central management itself;
- (ii) at this meeting the workers' representatives may:
 - (a) either decide to open negotiations with the central management on setting up the works council,
 - (b) or agree unanimously that they do not want a works council;
- (iii) once these negotiations have been concluded, an agreement between the two parties will define the nature, functions, competencies and rules of operation of the works council. The Commission takes the view that, if setting up such a works council appears necessary to both sides, it is up to them, in accordance with the principle of the autonomy of workers and managements in their relations with each other, to determine by common accord the essential constituent elements of such a works council, including the possibility of making use of existing machinery for dialogue. Furthermore, provided the aims and minimum provisions of the Directive as regards information and consultation of workers are specifically complied with, the final decision may be not to set up such a works council at all. The flexibility suggested by the Commission in this proposal derives from the need to take account of the specific situations of the undertakings or groups of undertakings and to see to it that these works councils are set up, above all, as a result of an agreement reached by the parties concerned.

The proposal provides that a number of minimum provisions must be complied with, the two parties being free to opt jointly for this approach. Two comments need to be made:

- (i) as regards the responsibilities of the works council in respect of information and consultation, the field covered derives to a large extent, as indicated above, from the joint opinion agreed on in March 1987 by the two sides of industry in the Val Duchesse social dialogue. The works council must be informed of and consulted on any management proposal likely to have serious consequences for the interest of the

workers employed by a European-scale undertaking or group of undertakings. The information covers, in particular, the structure, the economic and financial situation, the probable development of activities, the probable development of employment, and investment projects. Consultation must take place in good time and deal only with matters concerning the European-scale undertaking or group of undertakings without touching on what is already covered by national legislation and practices in the establishments or undertakings of the group or, in the case of multinationals whose decision-making headquarters are outside the Community, questions relating to establishments and undertakings located outside the Community. The proposal does not provide for any bypass procedures nor does it lay down a period during which planned decisions cannot be implemented without a works council opinion, more especially a favourable one. The Commission takes the view that the will to engage in dialogue shown by the setting up of a works council should induce the two sides to work together in a frank and constructive spirit. That is what is already going on in the 'group committees' and the other existing back-up structures;

- (ii) as regards the composition and the rules of operation of the works council, including the frequency of its meetings, the minimum provisions are realistic: at least one meeting a year (and an additional meeting if the need arises), costs to be borne by the undertaking or group of undertakings. Here again, this approach corresponds to current practice. As regards the significant advantages which such works councils may represent for the two parties concerned, the Commission takes the view that these minimum provisions do not constitute an exorbitant burden on the undertakings and groups of undertakings concerned.

The Commission's proposal contains a number of provisions designed to ensure the confidentiality of information, including the right of the central management to withhold information, the divulgence of which would have harmful consequences for the undertaking.

Similarly, the Commission's proposal contains a number of provisions designed to guarantee the works council's efficient operation, whatever the approach opted for, by seeing to it that the workers' representatives, in the exercise of their functions, enjoy the same protection and the same guarantees awarded to them by the national legislation or practices of their country of employment.

Gist of the Committee Opinion ¹

The Committee welcomes the Commission proposal. It approves the basic idea behind the draft Directive, in particular the importance attached to collective agreements. This is the only way to ensure that due account is taken of the different circumstances prevailing in Member States.

Adoption of this Directive has become particularly urgent, given the sharp increase in concentrations between Community undertakings. The Committee points out that the Community Charter of the Fundamental Social Rights of Workers also expressly mentions worker participation, in addition to information and consultation.

The Committee has doubts as to whether the term 'Community-scale undertakings' is appropriately defined. For example, there may be more need to set up an EWC in an undertaking or group of undertakings which has 100 employees in every one of nine Member States, than in an undertaking or group of undertakings with 1 000 employees in one Member State and 100 in another. The Committee therefore calls on the Commission to review the threshold and investigate the possibility of a more flexible solution.

It also suggests that the 100 employee threshold should not refer to the number of employees in individual establishments but rather to the total number in the undertaking/group in any one Member State.

The Committee calls for express reference to be made to collective agreements and collective bargaining arrangements between trade unions and employers, as provided by the laws or practice of the Member States so as to ensure maximum flexibility.

The Committee concurs that the Member States are primarily responsible for taking the requisite steps to protect secrets and confidential information. The Directive should guarantee a minimum of uniformity here.

Protection for members of European works councils is to be dealt with under the legislation of the Member States in which they are employed. A ban on discrimination should be stipulated to supplement this protection.

The right to information should be backed by a stipulation that members of EWCs are to receive regular, at least quarterly, written

¹ CES 417/91.

reports. It would be quite reasonable to propose that EWCs would meet management at least once a year for the purpose of obtaining information.

The Committee also recommends that the right to consultation be supplemented.

This Opinion, adopted by 93 votes to 63 with 2 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 Mr Klaus Schmitz (Germany — Workers).

The Employers' Group issued a minority statement expressing opposition to the Draft Opinion and thus to the Committee's Opinion.

2. PAYMENTS IN THE SINGLE MARKET

Discussion paper on making payments in the internal market
[COM(90) 447 final]

Gist of the Commission proposal

The creation of an area without frontiers, the free movement of capital and the prospect of economic and monetary union are compelling reasons for examining whether the present systems for cross-border payments will make it possible for operators to set up trans-European networks which ensure the efficient, secure and harmonious operation of the market for the benefit of users.

The main focus of the Commission communication is on retail (rather than wholesale) cross-border payments and on possible ways in which the existing systems for effecting such payments can be improved. The communication is thus written primarily from the point of view of the user of retail payment systems; however, it also deals with cooperation between banks and between them and the public authorities which will be necessary for the efficient management of payment systems.

The Commission identifies the main types of transactions leading to retail cross-border payments and lays down the criteria for an efficient cross-border payment system.

It then examines how existing payment channels, namely cash, transfers, cheques and payment cards might be improved and supplemented.

Steps to be taken

Achievement of the desired improvements will depend upon cooperation between banks, central banks and supervisory authorities.

In the light of responses to its discussion paper, the Commission will seek agreement on a strategy for Europe's payment systems, which will include a timetable for action. Progress will then be monitored in a Payment Systems Coordination Group bringing together those most directly concerned on a European level.

Gist of the Committee Opinion ¹

The Committee appreciates the efforts made by the Commission to analyse the extensive field covered by payments. The Committee supports the EC Commission's view that the further development of Europe's payment systems is an urgent need which should be met 'to the benefit of all of Europe's citizens' in order to get closer to a single market in the field of payments. The justified concerns of payments systems' users (consumers) need to be taken into account in this context. Consumers are not solely concerned about the time and costs involved in making international payments; they are also concerned, above all, about the question of legal security.

For the European Community, diversity of channels and methods of payment represents a feature on which to build, but at the same time constitutes a tremendous challenge because of the existence of a multitude of languages, cultures and, for the time being, currencies. Even though electronic transfers are at the forefront of the further development of payments systems, users should continue to have a choice between the different instruments. In those States where such a choice does not yet exist, the range of payment instruments available could be broadened.

Confidence should continue to be placed in the market as a driving force. The market has in the past produced solutions which alleviated many shortcomings caused by the coexistence of more and less readily usable currencies, as well as by the lack of progress in monetary cooperation between the Member States.

The further development and improvement of payment services in Europe will be made much easier if governments and authorities establish the necessary preconditions for the implementation of

¹ CES 412/91.

economic and monetary union. These preconditions include, in particular: the complete liberalization of cross-frontier money and capital transactions in the four EC Member States still claiming exemptions after 1 July 1990; the limitation or abolition of remaining notification requirements for credit institutions laid down in currency regulations; the incorporation of all EC currencies in the EMS exchange-rate mechanism and the restriction of exchange-rate fluctuations to a 2.25% band. It is incumbent upon the Governments of the Member States to establish these preconditions. This is a task which cannot be left to market forces.

Moreover, cross-border payment services should, by their very nature, be incorporated in an international framework, going beyond the frontiers of the EC.

The Committee endorses the establishment of the Coordinating Group proposed in the Discussion paper.

Consumer organizations in particular, should be able to express their views and their concerns in such a forum.

This Opinion, adopted unanimously, 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 Klaus Meyer-Horn (Germany — Employers).

3. TEMPORARY AND MOBILE WORKSITES

Proposal for a Council Directive on the implementation of minimum safety and health requirements at temporary or mobile worksites (8th individual Directive within the meaning of Article 16 of Directive 89/391/EEC)

[COM(90) 275 final — SYN 279]

Gist of the Commission proposal

The proposal is based on Article 118A of the EEC Treaty. It falls within the Commission's action programme for the implementation of the Community Charter of the Fundamental Social Rights of Workers.

The proposal has the following aims:

- (i) to gradually improve temporary or mobile worksites from the point of view of the safety and health of workers;

- (ii) as part of the social dimension of the internal market, to harmonize the minimum safety and health requirements for all temporary or mobile worksites.

The proposal aims to improve the safety and health of workers by laying down minimum requirements for temporary or mobile worksites and to introduce social provisions that will assist in improving working conditions at temporary or mobile worksites within the context of the internal market of the Community.

The proposal takes account of the need:

- (i) to pay due regard to safety requirements from the initial design stage onwards;
- (ii) to identify responsibilities on worksites;
- (iii) to specify safety and health-related obligations with respect to certain tasks for all persons working on temporary or mobile worksites, including those engaged in the preparation of the project.

Gist of the Committee Opinion ¹

The Committee endorses the aims and broad outlines of the Draft Directive. At the same time, it thinks that parts of the text require clarification, improvement and greater emphasis.

As regards the coordination of safety and health, the Commission proposal does not make it clear who is to liaise with the supervisory authorities (works inspectorate) and be responsible to them under public law with regard to the work of the coordinating body. The Committee feels that this responsibility should lie, at least in the project execution phase, with the main contractor.

The Directive should also explicitly require employers and self-employed persons carrying out the construction work to cooperate, particularly with the coordinating body.

The Committee further calls for the inclusion of provisions relating to workers' information, consultation and participation. It unreservedly welcomes the fact that the proposed Directive also covers the self-employed, and it considers it important for all Member States to ratify the International Labour Convention on Safety and Health in Construction as soon as possible.

¹ CES 414/91.

Specific comments:

- (i) definitions must take due account of those given in the ILO Convention No 167;
- (ii) the Directive must provide that only one specified health and safety body may be designated;
- (iii) the Directive should provide for the preparation of a general safety and health plan.

This Opinion, adopted by a large majority with 10 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 Mr Thomas Etty (Netherlands — Workers).

4. OZONE LAYER

Proposal for a Council Decision concerning the conclusion of the amendment to the Montreal Protocol on substances that deplete the ozone layer as adopted in June 1990 in London by the Parties to the Protocol [COM(90) 589 final]

Gist of the Commission proposal

The Montreal Protocol is an international agreement signed in 1987, limiting the discharge of substances which deplete the ozone layer (CFCs and related products) and was implemented in the EEC through Regulation 3322/88.

In 1989 it was found that the provisions of the Protocol were not strict enough and it was amended at the London Conference on the Protection of the Ozone Layer in June 1990.

The present proposal is for a Decision formally approving the revised Protocol on behalf of the EEC.

Gist of the Committee Opinion¹

The Committee approves the proposal but makes the following comment:

as the Montreal Protocol includes much less stringent transitional provisions for the developing countries than for the EEC, steps should be taken to ensure that imports from such countries do not jeopardize the application of the measures taken within the EEC.

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 Francisco Ceballo Herrero (Spain — Various Interests). The rapporteur was Mr George Proumens (Belgium — Employers).

5. PROMOTION OF ENERGY EFFICIENCY — SAVE

**Specific actions for vigorous energy efficiency (SAVE)
proposal for a Council Decision concerning the promo-
tion of energy efficiency in the Community**
[COM(90) 365 final]

Gist of the Commission proposal

The programme of specific actions for vigorous energy efficiency (SAVE) is designed to be 'the essential core of Community energy efficiency policy'.²

The programme will focus on three main areas:

- (i) technical measures (performance of equipment);
- (ii) financial measures;
- (iii) measures to influence consumer behaviour.

The programme will also include a series of legal measures, and measures to provide back-up for energy efficiency structures and action in the Member States. A system for the exchange of information at Community and international level will also be developed.

¹ CES 410/91.

² COM(90) 365 final, p. 3.

The reasons for introducing the programme include:

- (i) the need to respond to the levelling-off in the energy intensity of final demand. This was highlighted by a Commission evaluation of the energy policies of the Member States, carried out in 1988 and 1990. The Commission concluded that the Community is unlikely to achieve the Council's 1995 energy efficiency objective of a further 20% improvement in the energy intensity of final demand;
- (ii) the need for a coherent Community framework for the measures which the Member States are preparing in response to the greenhouse effect and the adverse impact of a possible third oil crisis. The Community framework should ensure that Member States' measures are compatible with the completion of the internal market, and should avoid a situation where individual Member States might set contradictory or restrictive standards;
- (iii) the fact that energy efficiency is a powerful driving force towards industrial competitiveness and social development.

The SAVE programme is the latest in a series of non-technological measures taken by the Commission, such as the sectoral audits to establish average consumption levels, the 1978 and 1982 Directives on type-approval of boilers, and the energy demonstration programme. SAVE is designed to give these measures a common framework. The Committee Opinions on the earlier Joule¹ and Thermie² programmes argued against a reduction in their financing.

The Commission predicts that if all the measures in the SAVE programme are applied in full, it will be possible to make final energy savings of 100 million toe per year. However, the SAVE measures alone are insufficient to reach the objective of stabilizing CO² emissions by the year 2000 as proposed by the Commission.

The first group of measures proposed (technical measures) includes the Draft Directive on the efficiency requirements of hot water boilers.³

¹ OJ C 23, 30.1.1989, p. 19.

² OJ C 221, 28.8.1989, p. 6.

³ COM(90) 368 final — SYN 294.

The Community action programme for improving the efficiency of electricity use¹ could be integrated into the SAVE programme after it is adopted.

An advisory committee will be set up to help the Commission implement the programme. The committee will consist of national representatives and will be chaired by the Commission. It will deliver opinions on the annual proposals from the Member States, and will also conduct an annual examination of the work carried out under the programme, establishing priorities for the following year.

The support measures will be implemented by bodies in the Member States. They will submit an annual report on their activities.

The programme is to be allocated ECU 35 million for the period from 1 January 1991 to 31 December 1995, divided up as follows:

Training activities	ECU 13 million
Pilot sectoral actions	ECU 9.2 million
Electricity programme	ECU 4 million
Commission actions	ECU 5 million
Information network	ECU 3.8 million

Gist of the Committee Opinion²

The Committee welcomes the Commission's proposal but feels that it should be strengthened by inclusion of the undermentioned suggestions:

- (i) the need to reduce the Community's dependence on the Middle East for its energy supplies;
- (ii) the importance of ensuring that the current PACE programme activities continue and are not subsumed by the SAVE programme;
- (iii) the structure of the new advisory committee proposed under the SAVE programme is a retrograde step compared with that under the PACE programme. The Commission should ensure that manufacturers, users, consumers, employees and professional bodies are consulted and contribute to the work of this committee;

¹ OJ L 157, 9.6.1989, p. 32.

² CES 408/91.

- (iv) the need for Member States to provide the bulk of any finance to promote energy saving;
- (v) the SAVE programme should disseminate the information resulting from this coordination to the competent authorities in the Member States;
- (vi) as a result of the above, there may be a case for the Council to review Community funding on this programme at regular intervals;
- (vii) lessons learnt from the SAVE programme should be made available to third countries, those of Central and Eastern Europe especially, as part of the general commitment to reducing air pollution;
- (viii) the important role of financial and fiscal incentives by the Member States in reinforcing energy saving;
- (ix) the Commission should also provide the Member States with sectoral level information;
- (x) the oft-repeated request for the report on the application of the Decision to be submitted to the ESC.

This Opinion, 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 Wilfred Aspinall (United Kingdom — Various Interests).

6. R&D — CONTROLLED THERMONUCLEAR FUSION

Proposal for a Council Decision adopting a specific research and technological development programme in the field of controlled thermonuclear fusion (1990-94)

and the

**Proposal for a Council Decision approving amendments to the Statutes of the Joint European Torus (JET), Joint Undertaking
[COM(90) 441 final]**

Gist of the Commission proposal

The proposed programme comes under research action 5 (Energy) and forms the third part of the framework programme of Community activities in the field of research and technological development (1990-94).¹ 'The main aim of Community action in this area is the development of sound, environmentally safe energy technologies designed to improve the Community's energy balance at reasonable cost.'

The long-term objective of the controlled thermonuclear fusion programme, embracing all research activities carried out in the Member States in this field, is 'the joint creation of environmentally sound prototype reactors'. To achieve this objective a step-by-step strategy is proposed. The first step, corresponding to research currently being carried out under JET (Joint European Torus), consists of adducing proof of the 'scientific feasibility' of fusion. The next step involves the building of an experimental reactor. The third step should see the construction of a demonstration reactor (DEMO).

In line with the recommendations of a report evaluating the Community fusion programme, drawn up recently by a committee of independent experts, the new specific programme proposed by the Commission aims first and foremost to provide the scientific and technological base and prepare industry for the construction of a next step experimental fusion reactor. By doing this, it should be possible to achieve self-sustained fusion reaction and long pulse operations.

¹ OJ L 117, 8.5.1990, p. 28.

The Commission proposal envisages the detailed design of the next step reactor within the framework of quadripartite international collaboration, ITER (international thermonuclear experimental reactor), between the Community, the United States of America, Japan and the USSR.

The Commission is also proposing amendments to the statutes of the JET Joint Undertaking, with the aim of extending the project to 1996 in support of the research on the Next Step.

Community funds totalling ECU 458 million are deemed necessary to carry out the programme, of which ECU 41 million are earmarked for the Joint Research Centre (JRC) contribution to the programme.

1% of the remaining ECU 417 million will be channelled to 'centralized action for disseminating and exploiting the results of the specific and supplementary research programmes', as provided for in Article 4 of the Decision on the framework programme for 1990-94.

The remainder, around ECU 413 million is divided among the programme's different research areas as follows:

	(%)
1. Next Step design	15-25
2. Long-term technical developments	5-10
3. JET	45-55
4. Support programme	20-30
— scientific support for Next Step and JET	
— other approaches to controlled fusion	

The programme will be implemented primarily on the basis of shared-cost research contracts, but there will also be 'concerted actions' and 'accompanying measures', the detailed arrangements for which are annexed to the Decision.

The Commission proposal also provides *inter alia* for:

- (i) a review of the programme in 1992, leading to amendments and an evaluation of the results obtained when the programme expires;
- (ii) the possible conclusion by the Community of cooperation agreements with non-Member States and international organizations, to the extent needed to achieve the programme's objectives.

Gist of the Committee Opinion ¹

The Committee reiterates its firm support for continuing the controlled thermonuclear fusion research programme and approves both draft decisions.

With more specific reference to the proposal in hand, the Committee makes a number of comments designed to highlight:

(i) *Safety and environmental protection*

Research should focus on limiting the amount and level of radioactivity in plants and on developing the technology to enable waste management and decommissioning and dismantling contaminated plants to take place in conditions fully consistent with safety and environmental protection.

(ii) *Preference for setting up an experimental reactor as part of ITER cooperation, rather than a purely European approach*

The Committee has absolutely no objection to this preference, but does feel that it is vital that all possible steps are taken to ensure that the programme's achievements are not jeopardized by this choice.

Opting for ITER cooperation somewhat diminishes the Community's autonomy and freedom of action in this sphere; to counterbalance this the Community should make a firm commitment to ensure that a European site is chosen to carry out the detailed studies and set up ITER.

(iii) *Industry's role in the fusion programme*

The Committee approves the Commission proposal to boost industry's role in this programme.

The Committee therefore calls on the Commission to follow up the evaluation panel's recommendation and investigate the possibility of pre-financing selected suppliers and of setting up 'pan-European consortia' which would permit the pooling of resources and skills.

Finally, the Committee calls on the Commission to amend Article 5 of the draft Decision to stipulate that the Committee is to be sent a copy of the report on programme implementation, together with the evaluation report.

¹ CES 407/91.

This Opinion, 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 Georges Proumens (Belgium — Employers).

7. SWEETENERS

Proposal for a Council Directive on sweeteners for use in foodstuffs

[COM(90) 381 final — SYN 296]

Gist of the Commission proposal

This proposal is the first in a new series implementing the framework directive 89/107/CEE on food additives.

The scope of the proposal is to lay down common rules throughout the Community for the use of several artificial sweeteners such as saccharin, acesulfame-K, aspartame, thaumatine, etc., and to fix the maximum permitted levels for these sweeteners in various foods.

These measures will facilitate the control of energy intake from food in order to avoid obesity.

Gist of the Committee Opinion ¹

The Committee approves the proposal subject to the following observations:

- (i) provision should be made in the Directive to monitor the consumption of sweeteners in the EEC and a satisfactory procedure established to amend the relevant legislation where this is necessitated as a result;
- (ii) the Opinion proposes a large number of amendments of a technical nature, particularly in the annex, covering for example diabetic foods, the ADI (acceptable daily intake), energy-reduced products, confectionery, fine bakery wares, chewing gum, etc.

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 Francisco Ceballo

¹ CES 409/91.

Herrero (Spain — Various Interests). The rapporteur was Mr Kenneth J. Gardner (United Kingdom — Employers).

8. COMMON TAX SYSTEM — ROYALTY PAYMENTS

Proposal for a Council Directive on a common system of taxation applicable to interest and royalty payments made between parent companies and subsidiaries in different Member States
[COM(90) 571 final]

Gist of the Commission proposal

In its communication to the European Parliament and the Council of 20 April 1990 on company taxation, the Commission gave priority to the removal of tax obstacles to the completion of the internal market, and in particular the elimination of double taxation of companies' intra-Community activities.

The new proposal aims:

to introduce a system similar to that established by the parent companies/subsidiaries Directive, which provides for the abolition of withholding taxes on dividends distributed by subsidiaries to their parent companies. The system to be introduced will also permit abolition of withholding taxes on interest and royalty payments.

The proposal for a Directive provides for abolition, during an initial stage, of any withholding tax on such payments between parent and subsidiary companies (minimum holding of 25%). Such taxes are particularly punitive in the case of dealings between companies belonging to the same group. It will be possible for this measure to be extended at a later date to other types of transaction between companies as part of the further development of the internal market.

A transitional period of seven years is envisaged for Member States which are net importers of technology and capital (Portugal and Greece), with withholding tax being abolished gradually (up to 10% during the first five years and up to 5% during the last two years).

Gist of the Committee Opinion ¹

The Committee welcomes the Commission proposal as a step towards the abolition of tax frontiers, which unfairly penalize financial flows between companies operating in different Member States. In the run up to the single market, it is essential that such flows should not be treated less favourably than those between companies in a single country.

Nevertheless, the abolition of withholding taxes on interest and royalties payments between parent companies and subsidiaries established in different Member States is only a first step. All interest and royalty payments within the Community should be exempt from withholding taxes, irrespective of any connection between the companies concerned.

The Commission defines parent companies and subsidiaries on the same basis as the Directive on parent companies and subsidiaries of 23 July 1990 (minimum holding of 25% in the subsidiary).

The logic of this definition is more apparent than real, however. The parent company-subsidiary directive aims principally to facilitate the formation of intra-Community groups of companies, most often leading to the creation of groups of companies located in different Member States. The primary concern was to avoid double taxation of profits distributed within a single group. Under these circumstances, a specific percentage holding is required for the group to be deemed a single economic entity exempt from double taxation of profits ploughed back into investment within the group.

The intention behind the abolition of withholding taxes on money flows in payment of royalties and interests between parent companies and subsidiaries is quite different, representing only the first step in comprehensive arrangements for the complete exemption of financial flows within the Community, applying equally to dividends.

The 25% holding requirement, which is quite reasonable taking into consideration the abolition of double taxation on group profits, may seem excessive when assessing subsidiary status — which is only an initial step in a process of total abolition of withholding taxes on all financial flows within the Community.

¹ CES 411/91.

Since a 10% holding is sufficient in most Member States, it should be possible to use the same figure for the Directive.

Lastly, the scope of the arrangements should be extended to interest and royalty payment flows involving commercial cooperatives.

This Opinion, adopted unanimously, 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 Robert Pelletier (France — Employers).

9. COMMON TAX SYSTEM — LOSSES

Proposal for a Council Directive concerning arrangements for the taking into account by enterprises of the losses of their permanent establishments and subsidiaries situated in other Member States
[COM(90) 595 final]

Gist of the Commission proposal

In its communication to the European Parliament and the Council of 20 April 1990 on company taxation, the Commission gave priority to the removal of tax obstacles to the completion of the internal market, and in particular the elimination of double taxation of companies' intra-Community activities.

The new proposal aims:

to establish tax arrangements under which undertakings will be authorized to take account, in their results, of losses incurred by their permanent establishments and subsidiaries in other Member States in order to ensure that those activities are treated no less favourably than national activities.

With regard to permanent establishments, in order to take account of the different practices in Member States but also to rationalize those practices, the proposal for a Directive envisages two technical methods for taking losses into account that are designed, among other things, to facilitate new transfrontier activities, which, during the start-up phase, often generate losses for undertakings.

Member States will, therefore, be able to choose between the imputation method and the deduction/reincorporation method (with the latter requiring compulsory reincorporation of amounts deducted into profits within a five-year period). This will have a

positive effect on an undertaking's cash position, enabling it to bear start-up losses more easily.

In the case of subsidiaries which do not legally form part of an undertaking, a large majority of Member States do not allow the losses of subsidiaries situated abroad to be taken into account, even under international agreements. The proposal for a Directive envisages here a single common solution based on the deduction/reincorporation method. The parent company's minimum holding is fixed at 75%. The Directive should not prejudice Member States' tax revenue since it merely defers the moment of collection.

Gist of the Committee Opinion ¹

The Committee welcomes the Commission proposal, since it makes a key contribution to the completion of the single market. It is clear that European companies should not be taxed on results which are fully or partly theoretical — as would be the case if losses incurred by their operations within the Community could not be deducted from overall profits.

In the interests of fiscal neutrality, it is also essential to ensure that losses may be dealt with under comparable conditions, irrespective of whether the operation takes the form of a permanent establishment or a subsidiary.

Reference to results for tax purposes

The Commission considers that the temporary character of the deduction made under the deduction/reincorporation method justifies taking into account the results for tax purposes determined in accordance with the rules of the country in which they are obtained; it suggests that this allows a degree of flexibility in the choice of tax legislation applicable.

Such flexibility does not, however, prevent difficulties arising from the different tax-assessment rules in the various Member States: the actual economic benefit generated by the temporary deduction of losses depends on the legislation applying in each country. The possibility of distorting competition therefore arises, since the country in which the head office is situated may finally have to bear the consequences of advantageous tax assessment rules adopted in another Member State in order to attract companies to set up on its territory.

¹ CES 436/91.

Moreover, verification by the State in which the head office is located of the proper application of tax rules in the country in which the results are obtained is contingent on the existence of effective arrangements for mutual assistance between the authorities of the various Member States — this has not yet been achieved.

There is therefore a risk of most Member States applying a system of accounting for losses determined in accordance with the tax rules applicable in the country of the head office; despite its apparent logic, the general introduction of such an approach would be too complex.

If this risk were to arise the principle set out in the draft Directive would no longer be justified: it would be preferable to seek the agreement of a majority of Member States to replace it with the principle of temporary taking into account of book losses. In addition to its simplicity, this approach would be both consistent and conducive to neutrality.

Furthermore, such an approach could be brought into line with the machinery for taking account of the losses incurred by subsidiaries established in the same country as the head office: in fact, this is usually accomplished indirectly via value adjustments.

Scope of the measure

The scope of the directive seems inadequate; it should be possible to take account of all the losses of a group, irrespective of where they are incurred.

This should apply in particular to:

- (i) losses incurred by permanent establishments located in a Member State belonging to 75% subsidiary holdings in non-Member States;
- (ii) losses incurred by sub-holdings in a Member State, 75% of which are owned by a 75% subsidiary holding located in a non-Member State.

The proposed scheme should be seen as the first stage of broader arrangements for taking account of losses, the only way of enabling powerful European groups to develop, in a better position to cope with international competition.

This Opinion, adopted unanimously, 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 Robert Pelletier (France — Employers).

10. GREEN PAPER: EUROPEAN STANDARDIZATION

Commission Green Paper on the development of European standardization: Action for faster technological integration in Europe
[COM(90) 456 final]

Gist of the Commission document

The main purpose of the Green Paper — a consultation document addressed to all interested parties — is to draw to the attention of producers and users of industrial products in the private and public sector the strategic significance of European standardization for the realization of the internal market.

A second purpose is to accelerate the delivery of European standards, for which demand is outstripping supply.

A third objective is to stimulate debate on how to ensure long-term dynamism and stability in European standardization.

The Green Paper examines a number of issues relating to the organizational structure, financing and policies and practices of standardization bodies, both at European and national level, and assesses what changes may be needed to make standardization serve the European market more effectively.

Part One identifies the challenges and problems facing European standardization. Section I explains the importance of European standardization for the Community's internal market. Section II briefly describes the structure and operation of the European standardization bodies, CEN, Cenelec and ETSI.

Part Two puts forward possible solutions to the challenges facing European standardization in the 1990s and addresses the role of European industry and other parties in the standardization process, the organization of European standardization and the role of public authorities.

The Commission's main recommendations can be summarized as follows:

European industry should give European standardization a much higher priority in its strategy for the internal market.

Standardization bodies should take further steps to improve their efficiency and to consider restructuring the European standardization system while ensuring coordination through new European-level structures (a European Standardization Council and Board) which will lay down the strategic direction of European standardization.

Other recommendations include greater direct participation of interested parties in European standardization work, the creation of self-standing European standards and a long-term policy for the financing of European standardization bodies.

The Commission also proposes extension of standardization activity to other European countries aiming at rapid integration of their economies with the Community economy.

Governments should step up their promotion and support of standardization at national and European level.

After completing broad consultations with the interested parties by early 1991, the Commission would like the Twelve to adopt a new type of partnership arrangement with the European standardization system during 1991, establishing a general framework for the system's activities, and for relations between the Community and the European standards bodies.

The Commission will make concrete proposals on this subject by mid-1991.

Gist of the Committee Opinion ¹

The Committee recognizes that European standardization is of great importance for realizing the single market, and welcomes the Commission's initiative to promote a debate on the subject, five years after the adoption of the Council Resolution of 7 May 1985.

The Committee considers that the European standardization bodies (CEN, Cenelec, ETSI) should improve their efficiency.

¹ CES 415/91.

In the Committee's view, the urgent need to draw up standards must not prejudice their quality.

The Committee has sympathy for the Commission's proposals to strengthen the role of European industry in the European standardization process. However, it stresses that the participation of workers and consumers at an early stage is important in the development of standards.

The Committee approves in principle a separation between standardization and testing certification. It therefore welcomes the setting up of a European Organization for Testing and Certification.

Member States should ensure a guarantee of quality linked with the use of the European mark.

The Committee welcomes the idea of an organization such as the European Standardization Council proposed by the Commission, but reserves its judgment as to the composition of the Council.

This Opinion, adopted by a large majority, with 7 votes against and 12 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 Kommer de Knegt (Netherlands — Workers).

11. TRAINING (FORCE, EUROTECNET)

Proposal for a Council Decision amending Decision 89/657/EEC establishing an action programme to promote innovation in the field of vocational training resulting from technological change in the Community (Eurotecnet) and Decision 90/267/EEC establishing an action programme for the development of continuing vocational training in the European Community (Force) in order to establish the Advisory Committee for continuing education and training embracing Force and Eurotecnet

[COM(90) 648 final]

Gist of the Commission proposal

In its recently adopted Memorandum on the rationalization and coordination of vocational training programmes at Community level, the Commission announced its intention to regroup related activities in the field of continuing education and training within

the framework of the Committee established for the Force programme.

The Force programme was adopted by the Council in its Decision 90/267/EEC on 29 May 1990, and an advisory committee was introduced in this context to assist the Commission in the implementation of the programme. The purpose therefore of this proposal is to adapt and enlarge the terms of this advisory committee to cover the different Community initiatives and programmes concerned with continuing training. In particular, this committee would also assist the Commission in the implementation of the Eurotecnet programme, thus eliminating the need for two separate committees.

This proposal therefore is designed to amend the Council Decision 89/657/EEC establishing the Eurotecnet programme and the Council Decision 90/267/EEC establishing the Force programme, to eliminate the advisory committees set up under these Decisions, and to create a new advisory committee on continuing education and training.

Gist of the Committee Opinion ¹

The Committee supports 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 Mr Herbert Nierhaus (Germany — Workers).

12. PROCESSED FRUIT AND VEGETABLES

Proposal for a Council Regulation (EEC) amending Regulation (EEC) No 426/86 on the common organization of the market in products processed from fruit and vegetables
[COM(91) 3 final]

Gist of the Commission proposal

The purpose of this proposal is to amend, in the Annexes to Regulation No 426/86, some of the combined nomenclature codes which were recently amended in Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature.

¹ CES 416/91.

Furthermore, in view of the forthcoming completion of the single market in the Community, all the derogations granted to the Member States under this Regulation as regards the maintenance of national trade restrictions or all measures having similar effect should be abolished.

In view of recent trends in Community trade, it is also advisable to revise the list of 'sensitive' products in Annex IV to this Regulation for which an import licence is required when applications for release for free circulation are made.

Gist of the Draft ESC Opinion

The Committee approves the Commission proposal.

This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the rapporteur-general, Mr Giuseppe Pricolo (Italy — Employers).

II. Representation and impact of the Economic and Social Committee

Official visit to Luxembourg

25 March 1991 — the Chairman, Mr François Staedelin, and the Secretary-General, Mr Jacques Moreau, met Mr Jacques Santer, Luxembourg Prime Minister. They then attended a working meeting with *inter alia* Mr Fernand Boden, Minister for Small and Medium-sized Businesses and Mr Robert Goebbels, Minister for Economic Affairs.

Meetings attended by the Committee Chairman and Secretary-General

4 March 1991 — Brussels: meeting with Mr Stig Brattstrom, Ambassador Extraordinary and Plenipotentiary, Head of the Swedish Mission to the EC and Mrs Margit Wallsten, Adviser on employment and social matters.

5 March 1991 — Brussels: Interinstitutional Conference.

6 March 1991 — Düsseldorf (FRG): meeting with Mr Wolfgang Clement, Head of the North Rhine-Westphalia State Chancellery.

7 March 1991 — ESC, Brussels: welcoming speech by the Committee Chairman to mark the opening of the European Movement's 'Top Forum' Conference. The President of the European Parliament, Mr Enriqu  Bar n Crespo, also attended.

7 March 1991 — Brussels: meeting with Mr Ozdam Sanberk, Ambassador Extraordinary and Plenipotentiary, Head of the Turkish Mission to the EC.

8 March 1991 — ESC Brussels: meeting of the CFDT — French Democratic Labour Confederation.

11 March 1991 — ESC, Brussels: meeting of the ESC/EFTA Consultative Committee Contact Group.

14 March 1991 — Brussels: meeting with Ambassador Rachid Sfar, Head of the Tunisian delegation to the EC.

15 March 1991 — Rome: meeting of the Study Group of the CNEL (Italian National Council for the Economy and Labour) Committee on International Relations. Discussions focused on (a) Mediterranean countries against the background of North-South relations and (b) the role played by consultative bodies.

21 March 1991 — Brussels: meeting with Commissioner Vasso Papandreou.

21 March 1991 — Brussels: funeral of Mr Jef Houthuys, former Chairman of the Belgian Confederation of Christian Trade Unions (CSC).

21 March 1991 — Brussels: inauguration of the Eurovillage.

Other events

5 March 1991 — ESC, Brussels: press conference chaired by Mrs Beatrice Rangoni-Machiavelli, Chairwoman of the Various Interests Group, on Women and Employment in the European Community. The press conference was attended by Commissioner Carlo Ripa di Meana, Mrs Maria Luisa Cassanmagnago Cerretti, Chairwoman of the European Parliament's Political Affairs Committee, Mrs Jacqueline de Grote, Coordinator of the European Woman's Lobby, Mrs Anita Garibaldi, Chairwoman of the European Cultural Foundation, Mrs Fausta Deshormes La Valle, Head of Division at the 'Information for Women' Service, EC Commission, Mrs Maria Magnani Noya, Socialist Group, European Parliament, Mrs Elena Marinucci, Member of the Italian Senate, Under-Secretary of State for Health, former chairwoman of the Italian Equal Opportunities Committee.

15 March 1991 — ESC, Brussels: Commissioner Van Miert attended the Transport and Communications Section meeting.

III. Fact-finding visits

The following groups visited the Committee in March:

- 1 March 1991: University of the Sorbonne, Paris (France)
- 1 March 1991: Ardennes PTT (Post & Telecommunications Service) (France)
- 1 March 1991: Greenhill College (UK)
- 4 March 1991: Clarendon College (UK)
- 4 March 1991: Friedrich-Ebert Foundation (Germany)
- 5 March 1991: University of Groningen (Netherlands)
- 5 March 1991: City of Westminster College (UK)
- 5 March 1991: Luton College of Higher Education (UK)
- 6 March 1991: Southgate College (UK)
- 6 March 1991: Pontypool College (UK)
- 6 March 1991: The Institute of European Studies (USA)
- 8 March 1991: Hillerød School of Commerce (Denmark)
- 11 March 1991: National Trade Union Productivity Congress (Japan)
- 12 March 1991: Svendborg International Centre (Denmark)
- 13 March 1991: European Academy — Bavaria (Germany)
- 13 March 1991: International Labour Office (Geneva)
- 14 March 1991: University of Amsterdam (Netherlands)
- 14 March 1991: Manchester Polytechnic (UK)

- 14 March 1991: Regional Association for Political Education (Germany)
- 15 March 1991: University of Groningen (Netherlands)
- 18 March 1991: Spanish Confederation of Employers' Organizations (Spain)
- 18 March 1991: University of London High School (UK)
- 18 March 1991: Wednesfield High School (UK)
- 19 March 1991: Brazilian Trade Unions under the auspices of the Friedrich-Ebert Foundation (Brazil)
- 20 March 1991: Austrian journalists
- 21 March 1991: Delegation from Bizkaia Region (Spain)
- 21 March 1991: National Institute for Applied Agronomics (France)
- 22 March 1991: Dewsbury College (UK)
- 25 March 1991: Oxford Polytechnic (UK)
- 25 March 1991: Board of the Federation of Danish Industries (Denmark)
- 27 March 1991: European Savings Banks Association (Belgium)

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