ENVIRONMENT COUNCIL: AGREEMENT ON GENETICALLY MODIFIED ORGANISMS, CONSERVATION RISKS AND ENVIRONMENT AGENCY, BUT DEADLOCK ON WASTE DIRECTIVE

When the EEC's Council of Environment Ministers struck a political agreement over a draft Directive on the deliberate release of genetically modified organisms on September 19, hopes were raised that the framework for the controversial field of biotechnology would be adopted by the middle of 1990. With most Ministers in favour of the Regulatory Committee procedure for establishing the scope of the Directive, the Council will now try to reach a common position at its November 28 meeting. But some Governments continue to contest the Article 100 A legal base, claiming that the Directive's aim is environmental protection under Article 130 S and not to ensure free trade. The Ministers also seemed happy with the draft Regulation to set up a European Environment Agency (see last issue of European Report), but large differences emerged over the legal base and scope of a draft Directive on waste. A Resolution from the French Presidency over industrial and natural risks found general approval, as did the new Community tropical forest strategy and the European Commission's mandate to negotiate a global ivory trade ban.

Legal base proves sticking point to biotechnology Directive

Although the draft Directive on the deliberate release of genetically modified organisms is designed to protect the environment, the European Commission has based the proposal on Article 100 A of the EEC Treaty which covers internal market matters. Most Member States accept the Commission's claim that as the proposal deals with the marketing of biotechnological products and not just research, like the draft Directive on confined use, on which Ministers agreed a common position in June, Article 100 A is the most apt legal base, especially as it allows Member States to restrict trade when necessary for environmental protection. The Commission tends to favour Article 100 A in any case as it allows proposals to be adopted by qualified majority, whereas Article 130 S requires unanimity. But, Denmark remains unconvinced, arguing that biotechnology is a new scientific area which needs further investigation and should be tightly controlled. The Danes, at least, will be holding out for an Article 130 S legal base.

Nevetherless, most of the difficulties surrounding the scope of the draft Directive seem to have been ironed out. Whilst UK Environment Minister, Mr Chris Patten, arrived in Brussels on September 19 armed with a comprehensive list of products which he felt should be excluded from the legislation, he was persuaded to let a Regulatory Committee decide, by qualified majority, on exemptions. Made up of Member States' representatives and chaired by the Commission, the Regulatory Committee will spend the year after the Directive's eventual adoption assessing each individual biotechnological product to see whether it should be exempt. Exemptions will only be allowed if the Committee finds that existing legislation on a specific product provides as high a standard of environmental protection and safety as the general biotechnology Directive.

All Member States welcomed the proposal to establish a European Environment Agency, before putting in a bid to house the new body when it starts work some time next year. However, the 12 Ministers were split over the scope of the EEA and over relations with third countries, such as Eastern bloc states and the six members of the European Free Trade Association (EFTA). Many, including the UK, see the EEA as merely a research, monitoring and data bank agency. But, European Environment Commissioner, Mr Carlo Ripa di Meana, was keen that the remit and powers of the EEA should be re-assessed after 3 or 4 years. Currently, the Commission is planning a 5 million Ecu budget for the Agency and a staff of 20.

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