

# *European* **TRADE UNION** *Information Bulletin*

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## **Maastricht Treaty In Use To Extend Workers' Rights In European- Scale Undertakings**

The provisions of the Protocol on Social Policy and the Agreement on Social Policy introduced into the Treaty of Rome by the Maastricht Treaty on European Union have been used for the first time in order to achieve progress in the three year old attempt to secure information and consultation rights for workers in European-scale undertakings. Following the failure of the Council of Ministers to reach agreement on the Commission proposals for a European Works Council Directive, the European Commission made immediate use of the new provisions following the final adoption of the Maastricht Treaty last November.

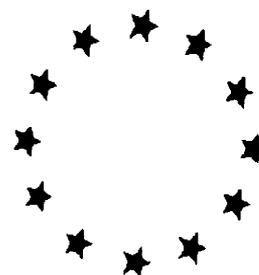
The Protocol and the Agreement state that eleven Member States "wish to continue along the path laid down in the 1989 Social Charter" and consequently they intend to make use of qualified majority voting for the adoption of a range of social policy initiatives. The Agreement also redefines the Commission's task of promoting social dialogue by placing an obligation on the Commission, on the one hand to promote the consultation of management and labour (the social partners) and on the other hand to consult them before presenting proposals in the social policy field.

In terms of the Commission proposals for information and consultation rights in European-scale undertakings, the Commission initiated a first phase of consultation with the social partners last November and a second phase in February. They have now produced a proposal for a Directive which will be considered under the Social Policy Agreement procedures. If adopted, it will apply in all Member States of the Community other than the United Kingdom.

The main elements of the new procedures under the Social Policy Protocol and Agreement are summarised on the following page. This issue of the Bulletin also contains a detailed summary of the new Commission proposals on information and consultation rights in European-scale undertakings.

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## SOCIAL POLICY PROTOCOL AND AGREEMENT

# The Application Of The Agreement On Social Policy

*The following summary is based on the European Commission Communication to the Council and the European Parliament on the application of the Agreement on Social Policy (COM(93) 600, December 1993)*

### The Consultation Procedures:

Article 3(2) and (3) of the Agreement on Social Policy require the Commission, before submitting proposals in the social policy field, to consult management and labour on the possible direction of Community action (the so-called "first phase" of consultation). If, after such consultation, the Commission considers Community action advisable, it is then required to consult management and labour on the content of the envisaged proposal (the "second phase" of consultation).

### Consultation and Negotiation:

The social partners who are consulted on the content of a proposal for Community action may deliver an opinion or, where appropriate, a recommendation to the Commission. The Commission will then publish its proposals for a Community initiative, taking into account, where appropriate, the views expressed by the social partners. Such a legal initiative can be adopted by the Council of Ministers by a qualified majority vote.

Otherwise they can inform the Commission of their desire to embark, in the context of their bargaining independence, upon a process of negotiation which could lead to a direct agreement between the parties. This negotiation process may take up to nine months and may be extended with the agreement of the Commission. Before the end of the nine month period, the social partners are required to submit a report to the Commission. This report may inform the Commission that:

- (a) they have concluded an agreement and jointly request the Commission to propose that the Council a decision on implementation, or
- (b) having concluded an agreement between themselves, they prefer to implement it in accordance with the procedures and practices specific to management and labour and to the Member States, or
- (c) they envisage pursuing the negotiations beyond the nine months and accordingly request the Commission to decide with them upon a new deadline, or
- (d) they are unable to reach agreement.

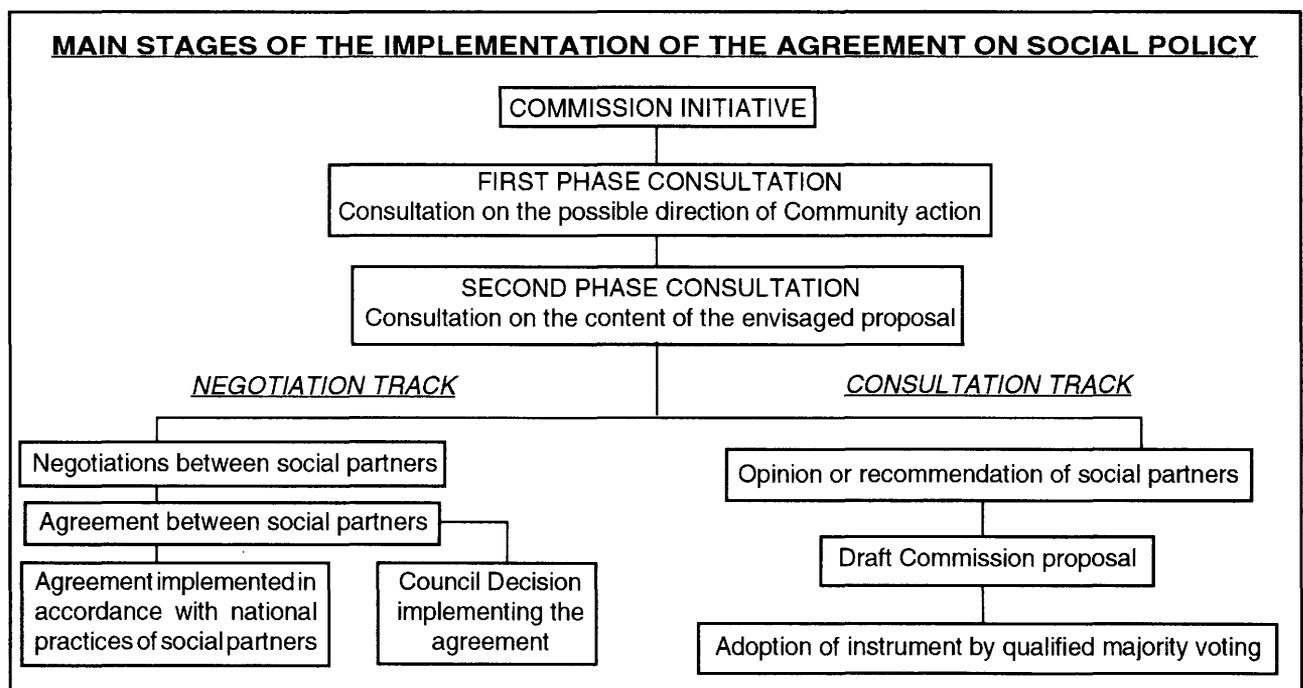
Where (d) applies, the Commission will be required to examine, in the light of the work already undertaken, whether a legislative instrument in the area under consideration would be appropriate.

### The Implementation of Agreements:

Agreements concluded at Community level are to be implemented either:

- (a) in accordance with the procedures and practices specific to labour and management and the Member States, or
- (b) at the joint request of the signatory parties, by a Council decision on a proposal from the Commission.

In adopting a decision, the Council will act by a qualified majority, except where the agreement in question contains one or more provisions relating to areas reserved for unanimous voting in the Social Policy Agreement (Article 2(3)).



# Commission Proposes A New Directive On Work Equipment

Over recent years, one of the most significant ways in which the process of European harmonisation has affected workers within the European Union, has been in the field of minimum health and safety at work provisions. The 1989 Health and Safety Framework Directive heralded a comprehensive and co-ordinated approach to establishing minimum levels of health and safety protection throughout the Member States. To date, some twelve individual directives have been introduced establishing minimum levels of protection in a variety of circumstances. The success of the health and safety legislative programme has been largely based on the effective qualified majority voting arrangements contained within Article 118a of the Treaty of Rome.

One of the first individual directives to be adopted established minimum safety and health requirements for the use of work equipment by workers at work (Second Individual Directive - 30th November 1989). This laid down general minimum requirements for work equipment only, although provision is provided for in Article 9(1). A later individual directive on temporary and mobile construction sites (Eighth Individual Directive - 24th June 1992) equally provides for the subsequent introduction of specific requirements for on-site outdoor workstations.

The European Commission has now introduced a proposal for a Council Directive which will meet the need for specific requirements contained in both the second and the eighth individual directives. The new Commission proposal - which is in the form of an amendment to the 1989 Second Individual Directive - seeks to do two things:-

- (1) It introduces a new requirement for initial and periodic inspections of work equipment.
- (2) It amends the existing annex and adds four new annexes to the directive.

## The Proposals On Inspections

The Commission proposal places a number of new responsibilities on the employer:-

- to ensure that, where the safety of work equipment depends on the installation conditions, it must be subject to an initial inspection, prior to being taken into service, to ensure that the work equipment has been installed correctly and is operating properly.
- to ensure that work equipment exposed to conditions causing deterioration likely to result in dangerous situations are subject to periodic inspections and special inspections following the existence of conditions likely to cause deterioration.
- to draw up a plan for the inspection of work equipment which determines the type and frequency of inspections.

The inspection plan must cover at least all the work equipment listed in paragraph 1 of Annex IV. Inspections must be carried out at least in the cases covered by paragraph 2 of the same annex.

## The Annexes

The existing annex to the 1989 Second Individual Directive is extended and renamed Annex I. Thus the five annexes to the amended directive will be as follows:-

**ANNEX I:** Annex I contains the original general requirements from the 1989 Directive with the addition of a new paragraph 3 which provides minimum requirements for:

- woodworking and allied machinery and presses where the conditions of use require regular manual intervention in the danger zone.
- mobile work equipment, whether or not self-propelled.
- work equipment for lifting loads.
- work equipment for lifting workers.
- scaffolding and similar work equipment.
- work equipment used for detecting non-apparent risks.
- bolt firing guns, captive bolt guns, nail drivers and the like.

**ANNEX II:** Annex II establishes a set of minimum requirements for general work equipment. The requirements relate to such things as the stability, installation, location and operation of equipment. Also covered by Annex II are minimum requirements for electrical equipment and load-lifting equipment.

**ANNEX III:** Annex III contains a non-exhaustive list of the conditions of use for which certain mobile work equipment must be protected against the hazards caused by "rollover". Equipment covered includes trawler loaders, back hoe loaders, scrapers, graders, self-propelled industrial trucks and tractors.

**ANNEX IV:** Annex IV contains a non-exhaustive list of work equipment to be included in the inspection schedule referred to in Article 4 of the revised directive. The list includes hyperbaric and hypobaric chambers, mobile work equipment with a maximum speed of over 15 km/h, work equipment for lifting loads of more than 300kg, cable haulage installations, and installations for storing and filling flammable liquids.

**ANNEX V:** Annex V establishes minimum competence requirements for those drawing up inspection plans and those carrying out inspections of work equipment.

The full text of the Commission proposal can be found in COM((4) 56 final (14th March 1994)

# New Commission Proposal On Safety At Sea

Over recent years, several maritime disasters have focused attention on the fact that many shipping operations in European waters continue to feature a high presence of substandard operators, ships and crews. The problem results from ships registered outside the European Union which fail to meet existing international standards and rules. Such vessels also often provide living and working conditions which fall far short of the minimum levels required by international Conventions. The result is the presence of a large number of vessels in Community waters which pose a threat to both safety and environmental protection standards. This situation was considered intolerable by all the institutions of the European Community, which have called on the Commission to submit appropriate proposals to ensure a better protection of life at sea and of the maritime environment.

The result is a new Commission proposal for a Council Directive concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (COM(94) 73, 16th March 1994).

Article 1 defines the purpose of the Directive as being to contribute to a drastic reduction of substandard shipping from Community waters by:-

- (1) enhancing compliance with international and Community legislation on maritime safety, protection of the marine environment and living and working conditions on board ships of all flags operating in Community waters;
- (2) establishing common criteria for thorough control of ships by the State of the port and harmonising procedures on inspection and detention, taking proper account of the commitments made by the maritime authorities of the Member States within the Memorandum of Understanding on Port State Control (MOU) signed in Paris in January 1982.

The Directive will apply to any ship and its crew calling at a seaport of a Member State or sailing in the waters under its jurisdiction, other than fishing vessels, ships of war, naval auxiliaries, wooden ships of a primitive build, government ships used for non-commercial purposes and pleasure yachts not engaged in trade.

The basic requirements of the proposed Directive are as follows:-

- (a) Member States are required to establish and maintain appropriate national maritime administrations for the inspection of ships in their ports, or in the waters under their jurisdiction.
- (b) The competent authority of each Member State shall carry out an annual total number of inspections corresponding to at least 25% of the number of individual ships which entered its ports during the previous calendar year.
- (c) Inspections should include, as a minimum:-
  - inspection of the various certificates and documents listed in Annex II of the proposed Directive;
  - verification of the ability of the crew to comply with the requirements of Articles 7 and 9 of the Directive on the Minimum Level of Training for Seafarers.
  - verification that the crew members are aware of their duties indicated in the muster list.
  - an overall impression of the vessel including the engine room and accommodation including hygienic conditions.
  - verification of the presence of the ship's medical chest and the validity of the related certificate.
- (d) Following the inspection, where there are clear grounds for believing that the condition of a ship or its equipment, or its crew does not substantially meet the applicable requirement of a Convention, a more detailed inspection shall be carried out, including further control of compliance with on board operational requirements.
- (e) On the completion of an inspection or a more detailed inspection, the master of the ship shall be provided by the surveyor with a document in the form specified in Annex 3 to the MOU, giving the results of the inspection and details of any decisions taken by the surveyor, and of corrective action to be taken by the master or the owner.
- (f) Where the inspection confirms or reveals deficiencies in relation to the requirements of a Convention, where applicable, appropriate action shall be taken to ensure that they are being rectified in accordance with the provisions of that Convention.
- (g) In the case of deficiencies which are clearly hazardous to safety, health or the environment, the competent authority of the State of the port where the ship is being inspected shall ensure that the ship is detained, or the operation in connection with which the deficiencies have been revealed is prohibited. The detention shall not be lifted until the hazard is removed, or until such authority establishes that the ship can, subject to any necessary conditions, proceed to sea, or the operation is resumed, without risk to the safety and health of passengers, or crew, or risk to other ships, or without being an unreasonable threat of harm to the marine environment.
- (h) Each Member State shall make provisions for co-operation and exchange of information between competent authorities to ensure that an authority can obtain all relevant information on ships calling at its ports.

# The Future Direction Of Community Health And Safety Policy 1994 - 2000

Of the 120 million workers in the European Community, almost 10 million are the victims of workplace accidents or occupational diseases each year. Eight thousand workers die each year as a result of occupational accidents and the direct costs, in terms of compensation, were over 25 billion ECU in 1991. The human costs, in terms of loss and suffering, are incalculable.

European Community policy on health and safety dates back to the earliest days of the Coal and Steel Community. Over the last fifteen years, policies have been initiated within the general context of three health and safety action programmes, the last of which culminated in the European Year of Safety, Hygiene and Health Protection at Work (1992-93). Perhaps the major breakthrough in establishing a comprehensive Community approach to health and safety protection at work was the introduction of the 1987 Single European Act. Article 118a provided for the "harmonisation of conditions" in the sphere of health and safety and extended the new Council - Parliament co-operation procedure (based on qualified majority voting) to decisions in this area.

The third action programme (1988 - 1993) was able to exploit the possibilities provided by Article 118a to the full. A comprehensive structure of common minimum standards was created in the context of the 1989 Health and Safety Framework Directive and over recent years some twelve individual directives have been adopted. Parallel approaches have led to the introduction of important health and safety standard for high-risk groups such as pregnant women, young people, temporary workers and the disabled. The success of the third action programme is exemplified by a high degree of public support for European initiatives in this field and a high level of active participation by the social partners.

The Commission is now in the process of defining its priorities in the field of health and safety for the rest of the decade. The publication of a new discussion document ("General Framework For Action") represents the first stage in this process. Following broad consultation on the basis of this document, the Commission will present detailed proposals for action. The consultation document suggests three general objectives for the future development of health and safety policy:-

(1) to ensure that the Member States correctly transpose the Community directives and that they take the necessary steps to ensure the proper enforcement of national legislation;

(2) to promote the work of the Community in this area in non-member countries;

(3) to continue to develop safety and health at work in the Community.

The Commission suggests that achievement of these objectives will involve measures designed to:

- implement, consolidate, rationalise and extend Community legislation in this area whenever necessary;
- complement legislation with appropriate information, training and promotion of a healthy working environment, with particular emphasis on small and medium sized enterprises;
- promote studies and research, codes of good practice and other instruments aimed at improving knowledge and action in this area;
- evaluate the socio-economic impact of all measures taken in this area, and develop networks in association with other Community policies.

The Commission suggests that the general framework for action should incorporate the full involvement of the social partners and the creation of firm links with other policy areas such as research and development and environmental policy. Equally, the Commission believe that the economic and social impact of measures on small and medium sized enterprises should be carefully monitored.

Whilst the consultation document suggests a number of broad topic areas for action, it does not define specific proposals at this stage. However, it does state that certain activities will require a more specific approach and suggests that investigations should be initiated or intensified into the following:

- certain high-risk sectors of activity;
- exposure to certain toxic and harmful chemicals;
- problems encountered by specific groups, such as young people and the self-employed;
- problems associated with well-being at work, and in particular the prevention of excessive physical, nervous and mental strain as well as stress;
- the possible ethical, social, psycho-medical and legal consequences of health surveillance of workers.

The full text of the Commission consultation document can be found in COM(93) 560 of 19th November 1993.

## EUROPEAN COMMISSION 1994 ANNUAL ECONOMIC REPORT

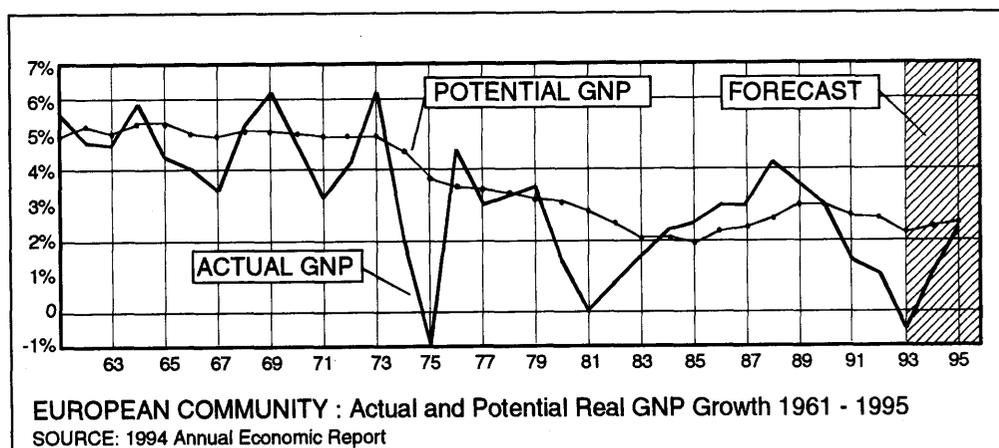
# "Modest Recovery" During 1994?

During 1993, the period of slow growth or near stagnation, which had started in 1991, turned into an outright recession. The decline in Community output, in real terms, during 1993 (only the second time this has happened in the 35 year history of the Community) made 1993 a year of recession, according to the European Commissions' annual economic report for 1994. Only in 1975, in the wake of the first oil shock, has the GDP drop been stronger. The current period of economic difficulties follows a long period of steady growth, but, if current forecasts for 1994 prove correct, the overall loss in output could be greater than that experienced during previous recessions. The scale of the current crisis is underlined by the fact that employment fell during 1993 by a record amount (a loss of nearly two and a half million jobs) and unemployment increased to 10.6% of the civilian labour force.

Nevertheless, against this gloomy background, at the start of 1994 there are signs that the sharp deterioration in confidence, which occurred in the first half of 1993, has been arrested, and in some cases even shown some improvement. The Report concludes that the overall impression is that the Community may well have reached the trough of the recession, although the latest indicators provide little evidence of a rapid upturn. The Commission is standing by the predictions it made at the end of 1993, that Community GDP will grow by a modest 1.25% in 1994 and about 2% in 1995. On the basis of this projection it is likely that unemployment will continue to grow during 1994 and 1995, reaching a record level of 11.25% in 1995 before starting to decline.

The Report emphasises the central thesis of the Growth, Competitiveness and Employment White Paper - a substantial reduction in unemployment requires that growth remains both strong *and* "employment-creating" for many years. According to the Commission Report, this calls for both determined structural adjustment efforts and careful macroeconomic management. Active labour market policies are required to make sure that the current cyclical increase in unemployment does not consolidate into "structural unemployment". Improved training possibilities must maintain, and possibly increase, the skills of those who are either losing their jobs or run the risk of being in this situation.

The needs of both structural policies and macroeconomic policies are summarised in the report. In terms of structural policies, action is required at both national and Community level. Member States should act without hesitation and be careful to avoid reducing their efforts once growth begins again. The Report points out that "good economic periods" may make structural reform appear less urgent, but they are



also the periods when reform is easiest to implement and is likely to bear fruit in the shortest term. At European level, the Community must rapidly implement the actions contained in the Action Plan agreed at the December 1993 European Council meeting.

The Report stresses that macroeconomic policy will have to aim at making sure that:-

- strong investment activity leads to an increase in the stock of capital and thus contributes to increasing the Community's potential rate of growth;
- national saving rises at least in line with the increase in the share of investment in GDP;
- in the medium term, actual output growth does not significantly exceed the potential rate of growth, which would make growth unsustainable (the errors of 1988-89 should not be repeated).
- the policy mix becomes and remains, balanced with monetary policy orientated towards the maintenance of price stability while the other instruments support growth without being incompatible with the former.

The general conclusions of the report - that "modest recovery" could take hold soon - are based on a detailed examination of the performance of not only the Community economy, but also the individual economies of each of the Member States.

# Commission Publish Draft Directive on Information and Consultation

The long process of discussion and debate on suitable arrangements for informing and consulting employees of European-scale undertakings appears to have entered its final phase with the publication of a new Commission proposal for a Directive. The original Commission proposal for a European Works Council directive was published back in December 1990 but failed to receive the necessary unanimous support at the Council of Ministers level.

As soon as the Maastricht Treaty on European Union came into force - on the 1st November 1993 - the European Commission announced its intention of making use of the procedures set out in the Agreement on Social Policy which, under the Maastricht Treaty, became annexed to the Treaty of Rome. Under this procedure attempts would be made to allow the social partners at European level to adopt a framework agreement, and, failing this, a legislative initiative could be adopted by a qualified majority vote. Under the provisions of the Social Policy Agreement, the Directive would not apply in the United Kingdom. Nevertheless, any Directive would apply to United Kingdom European-level undertakings as far as their activities in other Member States were concerned.

The Commission initiated a first phase of consultation with the social partners, on the possible direction of Community action, in November 1993. In February 1994, they initiated a second phase of consultation to see whether it would be possible for the social partners to adopt a framework agreement and therefore avoid the need for binding legislation. The deadline for this second phase of consultation was the 30th March. Several meetings between the European Trade Union Confederation (ETUC) and the European Employers' Confederation (UNICE) took place and a certain measure of agreement on the need for information and consultation procedures was achieved. However it was not possible for the parties to agree on the nature of a framework agreement and this fact was reported back to the European Commission.

Consequently, the Commission has now published its proposals for a Directive. The proposal draws on the earlier initiatives, the opinions of the European Parliament and the Economic and Social Committee, the results of the discussions within the Council (in particular the text submitted by the Belgium Presidency in October 1993), and the views of the social partners. Whilst the original concept of a European Works Council has been replaced by the concept of a European Committee, many of the basic provisions remain the same. In the following pages we provide a summary of the main provisions of the Commission proposal. The full and authoritative text can be found in the Official Journal of the European Communities (C series).

## NEW DRAFT DIRECTIVE ON INFORMATION AND CONSULTATION The Background

Dec 1990	European Commission publish a "Proposal for a Council Directive on the Establishment of a European works Council in Community-Scale Undertakings or Groups of Undertakings for the Purposes of Informing and Consulting Employees" (COM(91) 581).
Mar 1991	Economic and Social Committee delivers its Opinion on the proposal.
July 1991	European Parliament adopts Opinion on the draft Directive.
Sept 1991	Commission adopts an amended proposal for a Directive (COM(91)345).
May 1991 - Oct 1993	Council of Ministers discuss the Commission's proposals on five occasions. At none of these meetings did the Council reach unanimous agreement as required in Article 100 of the Treaty (the legal basis of the proposed Directive).
Oct 1993	The Commission informs the Council of its intention to initiate, on the entry into force of the Maastricht Treaty on European Union on the 1st November 1993, the procedure provided for in the Protocol and Agreement on Social Policy.
Nov 1993	Social Policy Agreement procedure set in motion. Commencement of six week period of consultation with the social partners at European level.
Feb 1994	The Commission launch second phase of consultations with the social partners at European level on the content of possible proposals including the legal basis for such proposals.
Mar 1994	At the deadline for the second phase of consultations (30th March), the social partners inform the Commission that they are unable to reach agreement on a negotiated framework agreement as an alternative to a legislative initiative.
Apr 1994	On the 13th April 1994, the Commission, taking the view that a Community initiative on the information and consultation of workers in Community-scale undertakings and groups of undertakings was still warranted, decided to adopt a proposal for a Council Directive on the basis of Article 2(2) of the Agreement on Social Policy.

## PROPOSED DIRECTIVE ON INFORMATION AND CONSULTATION

### LEGAL BASIS

Article 2(2) of the Agreement on Social Policy annexed to the Treaty establishing the European Community. Under the terms of the Social Policy Protocol and Agreement, the Directive, when adopted, will apply to all Member States with the exception of the United Kingdom.

### OBJECTIVES (Article 1)

The main purpose of the Directive is to "improve the right to information and consultation of employees in Community-scale undertakings and Community-scale groups of undertakings.

### MAIN PROVISIONS (Article 1)

A European Committee or a procedure for informing and consulting employees shall be established in every Community-scale undertaking and every Community-scale group of undertakings, where requested in the manner defined in Article 5. The purpose of such a Committee or procedure will be the informing and consulting of employees under the terms, in the manner and with the effects laid down in this Directive. Where a Community-scale group of undertakings comprises one or more undertakings which are Community-scale undertakings, a European Committee shall be established at the level of the group unless the agreement of the parties concerned provides otherwise.

Unless a wider scope is provided for in an agreement of the parties concerned, the competencies of European Committees and the scope of information and consultation procedures covered by the Directive shall, in the case of a Community-scale undertaking, cover all the establishments located within the Member States and, in the case of a Community-scale group of undertakings, all group undertakings located within the Member States. In this context, Member States are defined as the Member States of the European Community, with the exception of the United Kingdom.

### SCOPE (Article 2 & 3)

The Directive will apply to Community-scale undertakings and Community-scale groups of undertakings. A Community-scale undertaking is defined as "any undertaking with at least a thousand employees within all the Member States and at least 100 employees in each of at least two Member States". A Community-scale group of undertakings means a group of undertakings (that is controlling undertaking and controlled undertakings) with at least 1,000 employees within all the Member States, at least two group undertakings in different Member States, and at least one group undertaking with at least 100 employees in one Member State and another group undertaking with at least 100 employees in another Member State.

For the purposes of the Directive, a "controlling undertaking" is defined as an undertaking which can exercise a dominant

influence over another undertaking by virtue of, for example, ownership, financial participation or the rules which govern it. An ability to exercise a dominant interest will be assumed where the controlling undertaking holds a majority of the controlled undertakings' subscribed capital and controls a majority of the votes attached to that undertaking's share capital, or, can appoint more than half the members of that undertaking's administrative, management or supervisory body.

The Commission proposal also covers cases where Community-scale undertakings or groups of undertakings have their headquarters outside the territory of the Member States. Where this is the case, the Commission takes the view that such businesses should be treated in a similar way based on either the representative agent of the undertaking or group of undertakings or the undertaking with the highest number of employees in the territory of a Member State. In this respect, Community-scale undertakings and groups of undertakings with their central management in the United Kingdom will be subject to the same obligations as are imposed on undertakings and groups of undertakings from non-Community countries.

### ESTABLISHMENT OF A EUROPEAN COMMITTEE OR INFORMATION AND CONSULTATION PROCEDURE (Article 4)

The central management shall be responsible for creating the conditions and means necessary for the setting up of a European Committee or an information and consultation procedure as provided for in the draft Directive in respect of Community-scale undertakings or groups of undertakings. Where the central management is not situated in a Member State (or, for the purposes of this Directive, where it is situated in the United Kingdom) the central management's representative agent in a Member State, to be designated if necessary, shall carry out the responsibilities referred to above.

### THE SPECIAL NEGOTIATING BODY (Article 5)

Central management shall initiate negotiations for the establishment of a European Committee or an information and consultation procedure on its own initiative or at the written request of at least 100 employees or their representatives in at least two undertakings or establishments in at least two different Member States. The following guidelines apply to the composition of the special negotiating body (SNB):-

- The Member States shall determine the method to be used for the election or appointment of the members of the SNB who are to be elected or appointed in their territories.
- Member States shall provide that employees in undertakings and/or establishments in which there are no employees' representatives for no fault of their own have the right to elect or appoint members of the SNB.

## PROPOSED DIRECTIVE ON INFORMATION AND CONSULTATION

- The SNB shall have a minimum of three and a maximum of 17 members.
- In these elections or appointments, it must be ensured that, firstly, each Member State in which the Community-scale undertaking has one or more establishments or in which the Community-scale group of undertakings has the controlling undertaking or one or more controlled undertakings is represented by one member, and, secondly, that there are supplementary members in proportion to the number of employees working in the establishments, the controlling undertaking or the controlled undertakings as laid down by the legislation of the Member State within the territory of which the central management is situated.
- Central management shall be informed of the composition of the SNB.

The SNB shall have the task of determining, with the central management, by written agreement, the scope, composition, powers and terms of office of the European Committee(s) or the arrangements for implementing a procedure for the information and consultation of employees. Central management shall convene a meeting with the SNB with a view to concluding an agreement on the establishment of a European Committee or procedures for informing and consulting employees. For the purpose of the negotiations, the SNB may be assisted by experts of its choice.

The SNB may decide, by at least two-thirds of its votes, not to open negotiations with management or to cancel negotiations already opened. Such a decision will stop the procedure to conclude an agreement and the provisions of the Annex will not apply. Any expenses relating to the negotiations with the SNB shall be borne by central management so as to enable the SNB to carry out its task in an appropriate manner.

### CONTENT OF THE AGREEMENT (Article 6)

The central management and the SNB must negotiate "in a spirit of co-operation with a view to reaching an agreement". Without prejudice to the autonomy of the parties, the agreement shall determine:-

- (a) The scope and the composition of the European Committee(s), the number of members, the allocation of seats, the election procedures and the term of office.
- (b) The functions and powers of the European Committee.
- (c) The procedure for informing and consulting the European Committee.
- (d) The venue, frequency and duration of meetings of the European Committee.
- (e) The financial and material resources to be allocated to the European Committee.
- (f) The duration of the agreement and the procedures for its renegotiation.

The central management and the SNB may decide, in writing, to establish an information and consultation procedure instead of a European Committee. The agreement

must stipulate by what method the employees' representatives shall have the right to meet to discuss the information conveyed to them. For the purpose of concluding the agreement with central management, the SNB shall act by a majority of its members.

### SUBSIDIARY REQUIREMENTS (Article 7)

Where the central management and the SNB so decide, or if the central management refuses to commence negotiations within six months of the request referred to in Article 5, or if after two years from the date of such a request, they have been unable to conclude an agreement and the SNB has not taken cancel negotiations, the subsidiary requirements laid down by the legislation of the Member State in which the central management is situated shall apply. Such a subsidiary requirement must at least satisfy the provisions set out in the Annex to the draft Directive.

### CONFIDENTIAL INFORMATION (Article 8)

Member States shall provide that members of SNBs or of European Committees and the experts who assist them are not authorised to reveal any information which has expressly been provided to them in confidence. The same shall apply to employees' representatives in the framework of an information and consultation procedure. This obligation shall continue to apply, wherever these persons are, even after the expiry of their terms of office.

Each Member State shall provide, in specific cases and under the conditions and limits laid down by national legislation, that the central management situated in its territory need not transmit information when its nature is such that it would be seriously prejudicial to any of the undertakings affected by these provisions.

### OPERATION OF COMMITTEES AND CONSULTATION PROCEDURES (Article 9)

Central management and the European Committee shall work in a spirit of co-operation with due regard to their reciprocal rights and obligations. The same shall apply to co-operation between the central management and employees' representatives in the framework of an information and consultation procedure.

### PROTECTION OF EMPLOYEES' REPRESENTATIVES (Article 10)

Members of SNBs, members of European Committees and employees' representatives exercising their functions under information and consultation procedures shall, in the exercise of their functions, enjoy the same protection and guarantees provided for employees' representatives by the national legislation and/or practice in force in their country of employment, especially as regards attendance at meetings of SNBs or European Committees or any other meeting within the framework of information and consultation procedures, and the payment of wages for members who

## PROPOSED DIRECTIVE ON INFORMATION AND CONSULTATION

are on the staff of the Community-scale undertaking or group of undertakings for the period of absence necessary for the performance of their duties.

### COMPLIANCE (Article 11)

The Commission proposals require each Member state to ensure that the management of establishments or groups of undertakings situated within their territory and their employees' representatives or, as the case may be, employees abide by the obligations set out in the proposals, regardless or not of whether the central management is situated within the territory. Undertakings must also make known the average number of employees in Member States.

Member States are required to provide for appropriate measures in the event of a failure to comply with the terms of the Directive and ensure that adequate administrative or judicial procedures are available to enable the obligations deriving from the Directive to be enforced.

### AFFECT ON EXISTING RIGHTS (Article 12)

Once adopted, the Directive will apply without prejudice to measures taken under the 1975 Collective Redundancies Directive and the 1977 Transfer of Undertakings Directive. Nor shall the Directive prejudice the existing rights of employees to information and consultation under national legislation. Nor will it affect the right of Member States to apply or introduce laws, regulations or administrative provisions which are more favourable to employees.

### EXISTING AGREEMENTS (Article 13)

The obligations arising from the proposed Directive will not apply to Community-scale undertakings and groups of undertakings where, by the final transposition date for the Directive (which is proposed should be two years after the Directive is adopted), there is already an agreement providing for the transnational information and consultation of employees. When such an agreement expires, the parties to it can jointly agree to renew the existing agreement. Where this is not the case, the provisions of the Directive will apply.

### IMPLEMENTATION AND REVIEW (Articles 14 & 15)

Member States will be required to adopt the laws, regulations and administrative provisions necessary to comply with the Directive within two years of it being adopted. Alternatively, they must ensure that employers and workers' representatives introduce the required provisions by way of agreement. In such circumstances, Member States must take the necessary steps to enable them at all times to guarantee the results imposed by the Directive.

Seven years after the adoption of the Directive, the Commission is required to review its operation and, in particular, to examine whether the workforce size thresholds are appropriate with a view to proposing suitable amendments, if necessary.

### SUMMARY OF MAIN PROVISIONS

#### LEGAL BASIS

Article 2(2) Agreement on Social Policy annexed to the Treaty of Rome. *NOTE: Directive not directly applicable in the UK. However it applies to UK based European-scale companies insofar as their activities in other Member States are concerned.*

#### SCOPE

Applicable to:  
 (a) Community-scale undertakings (at least 1,000 employees and at least 100 employees in each of two Member States), and  
 (b) Community-scale groups of undertakings (similar definition).

#### OBJECTIVE

To improve the right to information and to consultation of employees in Community-scale undertakings or groups of undertakings.

#### REQUIREMENTS

(a) Central management must initiate negotiations for the establishment of a European Committee or an information and consultation procedure on its own

initiative or following request of at least 100 employees or their representatives.

- (b) A special negotiating body representing the employees from the various Member States must be established to negotiate scope, composition, powers and terms of office of European Committee or information and consultation procedure.
- (c) Where central management refuse to negotiate, or where the parties are unable to reach agreement, a set of subsidiary requirements relating to information and consultation, laid down in national legislation, will apply. Such requirements must satisfy the minimum conditions set out in the Annex to the Directive.
- (d) Central management must meet the cost of both the special negotiating body and the subsequent European Committee or information and consultation procedure.

#### IMPLEMENTATION

Member States must introduce the necessary laws to comply with the Directive within two years of it being adopted. After seven years the Directive is to be reviewed by the Commission.

**ANNEX 1 : MINIMUM SUBSIDIARY REQUIREMENTS**

1. The establishment, composition and competence of a European Committee shall be governed by the following rules:

- (a) The competence of the European Committee shall be limited to those matters which concern the Community-scale undertaking or group of undertakings as a whole or at least two of its establishments or group undertakings situated in different Member States. In the case of undertakings where the central management is not located in a Member State, the competencies of the European Committee shall be limited to those matters concerning all their establishments situated within Member States or concerning at least two of their establishments situated in different Member States.
- (b) The European Committee shall be composed of employees of the Community-scale undertaking or group of undertakings elected or appointed from their number by the employees' representatives or, in the absence thereof, by the entire body of employees. The election and appointment of members of the European Committee shall be carried out in accordance with national legislation/practice.
- (c) The European Committee shall have a minimum of 3 members and a maximum of 30. It shall elect a chairman and, where its size warrants it, an executive committee, comprising at most a chairman and four members. It shall adopt its own rules of procedure.
- (d) In the election or appointment of members of the European Committee, it must be ensured:
  - firstly, that each Member State in which the Community-scale undertaking has one or more establishments or in which the Community-scale group of undertakings has the controlling undertaking or one or more controlled undertakings is represented by one member;
  - secondly, that there are supplementary members in proportion to the number of employees working in the establishments, the controlling undertaking or the controlled undertakings as laid down by the legislation of the Member State within the territory of which the central management is situated.
- (e) The central management shall be informed of the composition of the European Committee.
- (f) If, at the end of this procedure, the number of employees' representatives on the European Committee is less than 30, those establishments or controlled undertakings which did not obtain members under subparagraph (d) shall elect or appoint a member.
- (g) Four years after the European Committee is established it will deliberate as to the renegotiation of agreement on the European Committee or information and consultation procedure or to the continued application of the provisions of this Annex.

2. The European Committee shall have the right to meet with central management at least once a year, to be informed and consulted, on the basis of a report drawn up by the central management, of the progress of the business

of the Community-scale undertaking or group of undertakings and of its prospects. The local management shall be informed accordingly. Such information shall relate in particular to its structure, economic and financial situation, the probable development of the business and of production and sales, the employment situation and probable trend, investment projects, and substantial changes concerning the organisation, the introduction of new working methods or production processes, transfers of production, cut-backs or closures of undertakings, establishments or important parts thereof, or collective redundancies.

3. Where there are exceptional circumstances affecting employment, more particularly in the event of relocations, the closure of establishments or undertakings or collective redundancies, the executive committee of the European Committee - or, where there is no such executive committee, the committee itself - shall have the right to meet, at its request, the central management, or any other more appropriate level of management within the Community-scale group of undertakings, with a view to being informed and consulted on any means liable to have a considerable effect on the employees' interests. This information and consultation meeting shall take place as soon as possible on the basis of a report drawn up by the central management or any other appropriate level of management of the Community-scale group of undertakings, on which the European Committee may put forward an opinion within a reasonable time. Such a meeting shall not affect the prerogatives of the central management.

4. The European Committee or its executive committee shall be entitled to meet before any meeting with the central management, without the management concerned being present.

5. The members of the European Committee shall be entitled to inform the employees' representatives at establishment or at group undertaking level or, in the absence thereof, the body of employees, of the content and outcome of the information and consultation procedure carried out in accordance with this Annex.

6. The European Committee may be assisted by experts of its choice, insofar as this is necessary for it to carry out its tasks.

7. The operating expenses of the European committee shall be borne by the central management. Central management shall provide the members of the European Committee with such financial and material resources as to enable them to meet and perform their duties. In particular, the cost of organising meetings and arranging for interpretation facilities and the accommodation and travelling expenses of members of the European Committee and its executive committee shall be met by central management unless otherwise agreed.



**European Centre For The  
Development Of Vocational  
Training**

As part of their work in preparing for the social partners the "Joint Opinion on Vocational Qualifications and Certification", the European Centre For the Development of Vocational Training (CEDEFOP) was called upon to undertake an analysis of systems and procedures of certification in force in the Member States. CEDEFOP has now published a summary of this information, along with a set of analytical tables, in its regular publication "CEDEFOP flash". The analytical tables show, for each Member State, the details of the various vocational training awards including name of award, mode of acquisition, type of diploma or certificate, level of responsibility, organisation of assessment and the usual age for obtaining the award. Three separate tables cover levels 2, 3 and 4 awards.

The summary report and analytical tables attempt to clarify the complex situation in relation to award certification bodies. In many Member States there are still a wide variety of public and private bodies involved, although there is a general trend towards the creation of homogeneous national structures.



**THE ECONOMIC AND  
SOCIAL COMMITTEE**

Over the last three decades, the number of older people (60 years of age and over) in the European Community has risen from 46.5 to 68.6 million, an increase of almost 50%. Current trends suggest that by the year 2020, there will be approximately twice as many older people in the Community as there was in 1960. Such a situation will make heavy demands on the health and social welfare systems of Member States. But equally, it will offer significant opportunities to ensure that older people can continue to make an important contribution to the social and cultural fabric of society. It was in the context of these trends that the European Community designated 1993 as the European Year of Older People and Solidarity Between Generations.

To mark the European Year, the Economic and Social Committee has adopted an Own-Initiative Opinion on older people in society (CES(93) 1171). The Opinion starts by reflecting one of the most important themes of the European Year in its call for EC and national policy makers to view older people as a resource to society rather than as a social burden, and to devise safeguards to prevent the formation of an entrenched division between retired and active workers. The Committee believes that the aim of policy making should be to enable older citizens to apply their experience, exercise their potential, to develop their rights and duties, and to feel part of, rather than apart from, society. This

should be done, the Committee believes, with a two-way concept of "solidarity between the generations" involving younger people helping those who have become dependent, but also involving older people putting to good use their physical, mental and (where appropriate) financial resources.

The Committee repeats the call, it has made in earlier opinions, for the introduction of a Community Charter of the Fundamental Rights of Older People together with an accompanying Action Programme. The proposed Charter should highlight the problems, needs and potential of the elderly, but not separate them from policies concerning the broader aspects of society as a whole. Such a Charter would emphasise the fundamental rights of older people such as:

- a guaranteed minimum pension equal to either at least the net minimum wage or at least 40% of the net national wage;
- guaranteed minimum resources equal to 80% of the minimum pension for any elderly person who has reached retirement age, as called for in the European Social Charter;
- regular adjustments in pensions and minimum resources in line with the rising living standards and pay of workers;
- a readjustment of pensions for pensioners whose pensions were calculated on bases which were generally lower than those of the existing system;
- improved provision for older retired women on a worker's or widow's pension;
- access to high-quality health care, adapted to evolving needs, the need to step up preventive measures and developments in disease and treatments;
- priority given to organising domiciliary care and services to enable the elderly to remain in their familiar domestic surroundings;

**EUROPEAN PARLIAMENT**



The April 1994 plenary session of the European Parliament adopted various reports and resolutions in the social policy field, including the following:-

**Socrates Programme:** At the first reading, the European Parliament called for an extension and strengthening of the proposed Socrates programme.

**Youth For Europe:** The European parliament has supported the proposals for a third stage of the Youth for Europe programme of youth exchanges.

**Health and Safety:** The European parliament has supported the creation of a new European Agency for Safety and Health at Work and called for it to have a role in assessing the implementation of Community legislation.

### New ECSC Funding For Coal Industry Restructuring

The European Commission has adopted a new package of measures - funded from the European Coal and Steel Community budget - to accompany the on-going restructuring of the coal industry. Increased support will be granted to workers affected by early retirement, redeployment and unemployment measures. The new scheme is designed to bring the Commission's contribution up to 8,000 ECU per worker for early retirement, 6,000 ECU per worker for redeployment and 5,000 ECU per worker for assistance to the unemployed. Under the terms of the aid programme, Member States must at least match the Commission contribution.

These measures - which are based on the European Coal and Steel Community - are in addition to the support provided for coal industry restructuring from the RECHAR / RECHAR II programme and from various European Social Fund measures. In total 110 million ECU of support from the ECSC is expected over a four year period (1994-97). During this period it is expected that some 52,000 jobs in the coal industry will be lost.

### Trade Union Organisations Call For "Social Clauses"

Three international trade union organisations - the International Confederation of Free Trade Unions (ICFTU), the World Confederation of Labour (WCL) and the European Trade Union Confederation (ETUC) have adopted a joint statement calling for the introduction of "social clauses" in international trade agreements. The statement calls for a link between trade and workers' rights to be incorporated into the new world trade organisation which will come into being at the end of the GATT Uruguay Round (and replace GATT).

The national trade unions affiliated to the three international confederations have agreed to put pressure on their national governments to press for the adoption of this aim. The statement welcomes the decision made by the preparatory meeting of GATT officials in Geneva to refer the question of social clauses to the preparatory meeting of the new World Trade Organisation (a recommendation likely to be adopted by the full GATT meeting at Marrakesh). The demands of the three trade union international confederation for "social clauses" focus on the guarantee of certain basic rights such as the freedom of association and the outlawing of child labour, forced labour and discrimination.

### European Level Social Dialogue In Public Administration

The first meeting took place in Maastricht in mid April between the General Directors of Public administration of the EU Member States and a delegation of trade union representatives from the Public Services Trade Union Committee of the ETUC who represented some 100 trade unions and about 9 million public administration workers in Europe. The meeting was organised by the European Institute for Public Administration and supported by DGV of the European Commission.

Discussion themes included co-operation between national administrations, exchange of civil servants and the application of social directives in the public sector, notably those relating to health and safety at work. Debates were said to be "very constructive" and participants gave a positive evaluation of the meeting and hoped that a follow-up meeting would take place in the near future.

### Commission Launch Pilot Project On Regional Training Needs

The European Commission launched, on the 15th April 1994, a pilot project to strengthen co-operation between the various parties involved in vocational training at regional level. The pilot project falls under the Community Initiatives within the context of the European structural funds. The main aim is to encourage co-operation in the analysis of the requirements of vocational qualifications within a regional context. The project, which will last one year, will receive 1 million ECU in funding. Ten regions will be involved in the project:-

Greater Copenhagen (DK)  
Saxony-Anhalt (D)  
Western Greece (EL)  
Valencia (E)  
Loire Region (F)  
Liguria (I)  
Greater Dublin (IRE)  
Limburg (NL)  
Central Portugal  
East Anglia (UK)

The project will have two phases:-

- (1) Establishing the partnerships between the various parties (public authorities, employers, trade unions, enterprises, training establishments, chambers of commerce and industry), and
- (2) setting up transnational groups to promote the spread of good practice among the various regions.

THE SOCIAL  
ARCHITECTURE  
OF EUROPE  
PUT TO THE  
TEST

Trade Union  
Ideas For A  
Model Of  
Development

Perhaps the most important challenge facing the European Union today is that of unemployment. The most significant contribution to identifying ways of tackling this problem was provided by the European Commission's White Paper, "Growth Competitiveness and Employment", which was published towards the end of last year. One of the main aims of the White paper was to provide a basis for a detailed analysis of the current economic crisis and a rational evaluation of possible solutions. As part of the European trade union movement's contribution to this on-going debate, the European Trade Union Confederation organised a conference on the theme "Growth, Competitiveness and Employment : What Are The Trade Union' Answers" in Dublin in October 1993.

The conference attempted to draw up a balance sheet of social policy developments in the European Community, to assess the outlook for social policy, and to discuss trade union proposals on economic growth, competitiveness and employment. It also dealt with the key question of a European model of development and the reform of the EC Treaty in the social policy field. The ETUC asked the European Trade Union Institute (ETUI) to prepare working documents for this conference, and, in order to foster a continued debate on the issues concerned, these working documents have now been published in English, French and German as a special ETUI Report.

The working documents are grouped under three headings, as follows:-

- (1) The Internal Market and the Social Dimension:
  - Abolition of physical, technical and fiscal frontiers;
  - State of implementation of the European Social Charter and the Social Charter Action Programme
  - European Social Dialogue - Overview and Prospects
- (2) Economic Development and Employment
  - European economic and labour market developments since 1985
  - Growth, competitiveness and employment : elements of a European model
- (3) The Maastricht Treaty and its Follow Up
  - The new context offered by the Maastricht Treaty
  - Elements of a reform of the Maastricht Treaty in the social policy field

*" The Social Architecture of Europe Put To The Test : Trade Union Ideas For A European Model of Development" Working Documents from the Dublin Conference on Growth, Competitiveness and Employment. October 1993. Price BF 1000 Published by the European Trade Union Institute.*

Le  
Magazine

Education,  
Training and  
Youth in Europe

From the 1st January 1995 there will be a radical new approach to European initiatives in the field of education, training and youth policy. Under current Commission proposals, the various individual education and training programmes such as Comett, Erasmus and Lingua, are to be replaced by three integrated programmes : Socrates for education, Leonardo for training, and Youth for Europe III.

In order to reflect this new, integrated, approach, the European Commission's Task Force on Human Resources, Education, Training and Youth has launched a new regular publication under the title "Le Magazine". The aim is to provide a coherent and succinct view of the European dimension in the field of education, training and youth policy, at a time of transition. In line with the new move towards greater integration, "Le Magazine" will replace all the various newsletters which accompanied the first generation of Community programmes.

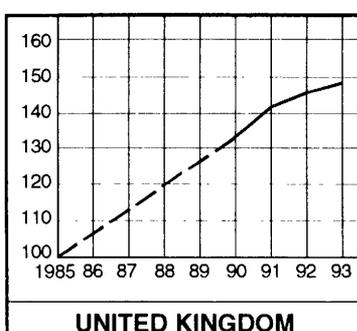
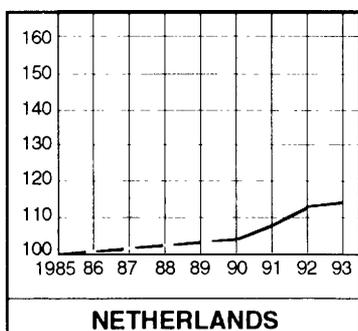
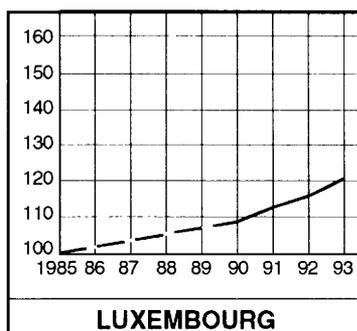
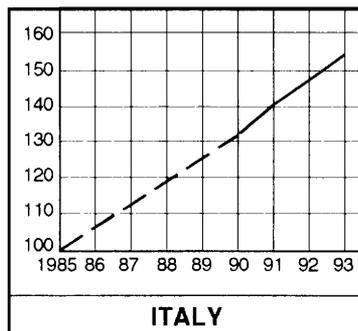
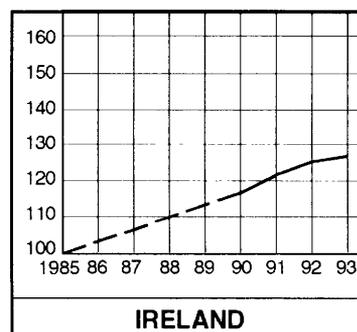
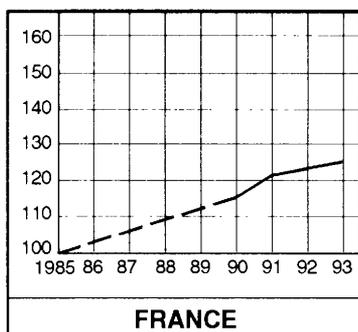
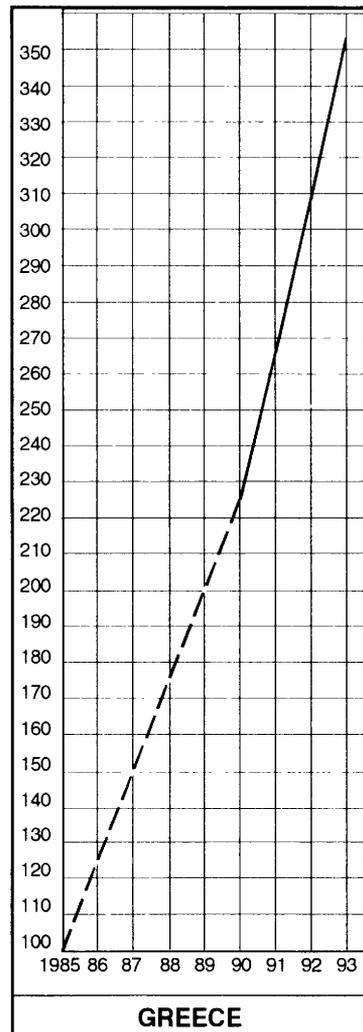
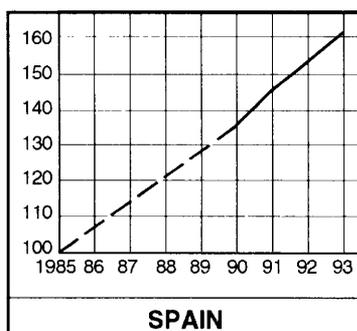
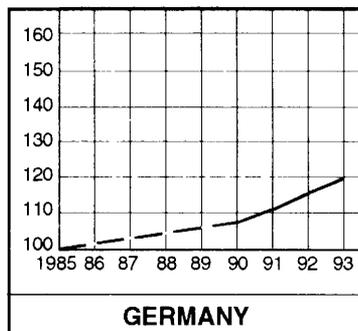
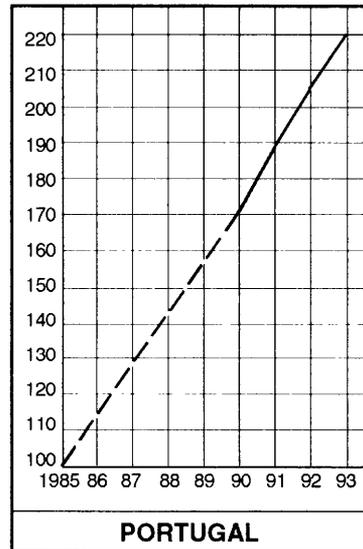
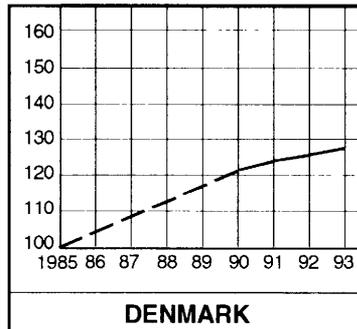
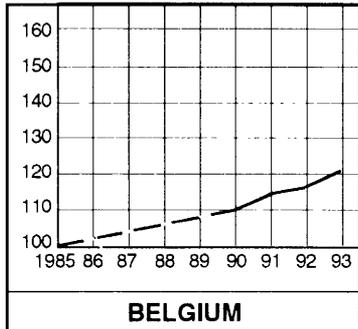
The first issue of "Le magazine" provides a good indication of the scope and range of subjects to be examined in future issues. The opening item is an interview with European Commissioner Antonio Ruberti, the Commissioner responsible for education and training. Commissioner Ruberti assesses the current state of European education, training and youth policy and points to some of the things that can be expected of the new generation of initiatives proposed for 1995. A second article provides a useful summary of these new initiatives and the current state of the one programme which will be continuing - the Tempus programme for higher education co-operation with the countries of Central and Eastern Europe.

An article entitled "Europe at School" examines some of the reactions to the 1993 Commission Green Paper on the European Dimension in Education. Further articles look at such topics as student and youth exchanges, the key role assigned to education and training policy within the Growth, Competitiveness and Employment White Paper, and a major review and assessment of many of the first generation of education and training programmes and initiatives. "Le Magazine" is a welcome addition to the range of publications on European social and educational policy, which will be found useful by all trade unionists with an interest in this vital policy area.

*"Le Magazine : Education, Training and Youth in Europe" Published by the European Commission. Further details from the European Commission Task Force Human Resources, Education, Training and Youth, Rue Joseph II 37, 1049 Brussels, Belgium.*

**STATISTICS**

**CONSUMER PRICES IN MEMBER STATES 1985 - 1993**



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 Eurostatistics Monthly No. 3 1994

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**EUROPEAN TRADE UNION INFORMATION BULLETIN**

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